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The American Political Science Review

(12)

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The American Political Science Review

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No. 1

PROGRESS IN POLITICAL RESEARCH¹

CHARLES E. MERRIAM

University of Chicago

It is now over twenty-one years since a group of scholastic adventurers meeting in New Orleans established the American Political Science Association, and started the organization upon its uncertain course. Looking back over the days that intervene between our infancy and this, the attainment of our twenty-first meeting, one may trace the lines of advance in our undertaking. As one of the charter members I may be permitted the liberty of reviewing briefly some of the more significant fields in this development.

One of the most striking advances in research during the last twenty-one years has been that centering around the problem of the modern city. Research centers, some of them within and some of them without university walls, have sprung up all over the country, and municipal research workers have contributed materially to the intelligent analysis of urban phenomena and to the direction of the growth of our municipalities. In no field has there been more scientific and practical political research than here. Goodnow was most conspicuous in this field in the earlier days and Munro in the later.

The study of political parties has been rescued from neglect and has been made an integral part of instruction and the object

¹ Presidential address delivered before the American Political Science Association at New York City, December 28, 1925.

of many specific studies, notably those of Holcombe, Rice, and Gosnell. Along with parties, public opinion has been made an object of more intensive inquiry, ~~and~~ in the suggestive studies of Lippman and Allport.

Political theory has been embellished by the scholarly treatises of our distinguished presidents, Dunning, Willoughby, Garner, and many other studies in more special fields, both historical and analytical.

Inevitably as a result of the World War, but even before that, attention was directed toward international relations, and a flood of important descriptions and rationalizations center around foreign affairs. Many scholarly efforts have been made to formulate more concise principles of international law and to illuminate international relations, as in the works of Wilson, Moore, and a host of others.

In constitutional law many keen and scholarly observers have appeared, of whom Corwin, Powell, and Dodd are typical. But the observers in this field must struggle hard in the wide variety of decisions that fall upon them. In the broader field of juristic theory the figure of Roscoe Pound looms up large and lambent. On the whole, American jurisprudence remains upon a vocational basis, with little attention to research.

In this period the beginnings were made of the study of public administration. Inquiries into administrative law and organization were already developed by Goodnow and others, but in the more recent period specific attention has been directed to public personnel problems, and progress in this direction may be chronicled.

In the field of legislation significant advances were made by McCarthy, whose untimely death caused irreparable injury. In other directions Freund and Shambaugh moved forward.

In the field of method some stirrings may be observed. Beard struck out into an interesting field of economic interpretation of American political institutions, but unfortunately the task is still incomplete. However, our distinguished colleague, the Connecticut Farmer, as he terms himself, is still young. In the last four years this Association's committee on political research has

undertaken to inquire more closely into the methods of political science. The National Conferences on the Science of Politics have emphasized this, and some progress has been made in that direction, although it is still early for observations in this new field. On the whole, the most striking tendency of method during this period has been that toward actual observations of political processes and toward closer analysis of their meaning,—this in contrast to a more strictly historical, structural, and legalistic method of approach to the problems of politics.

Some important aids to scholars have been developed during the last two decades. Among these are the *American Political Science Review*, the *National Municipal Review*, the *American Journal of International Law*, the *Journal of the American Bar Association*. We are all deeply indebted to the editors and managers of these indispensable journals, as we are to those of the older journals. Unfortunately we must chronicle the sad death of the index and digest of state session laws which was for a period of twenty years an invaluable aid to scholarship.

The number of serious students of politics is obviously increasing in number and training, although the striking fact is that the group is still small and pitifully inadequate to the task they undertake. We must record the loss of two of our most eminent scholars of greatest promise in the field of government, Presidents Goodnow and Lowell, who have both gone to that bourne from which no political research man returns.

It would be interesting to examine the fact-content of these various inquiries and to develop the various principles and conclusions that have been established, but the limits of this discussion will not permit such an appraisal.

A disconcerting loss which must be chronicled is the widespread popular tendency toward political fundamentalism. This takes the form of intolerance toward opposing views, and a dogmatic self-complacency intolerant of challenge or rebuke, resulting in indirect, or even direct, suppression of liberty of speech or inquiry. The Scopes case in Tennessee was startling, but the Lusk law in New York was as bad. Only recently in a great mid-western university a former cabinet member was refused permission to

speak in a university building on the League of Nations because it is a political question. If we lose freedom of speech in the quest for scientific truth, our descendants will find it necessary to retrace some painful steps over a flinty way.

On the whole, these twenty-one years have been a period of substantial progress and solid achievement, more than justifying the expectations of those who aided in launching the Association.

However, we have farther to look ahead than behind, and we must therefore turn toward tendencies in the future development of research in the field of political relations. Here we come upon some of the paradoxes of politics. After all our advances, it sometimes appears that we are not fully appreciated by our colleagues, either in the world of practical politics or in the higher and brighter world of theoretical social science.

I had been some months in the Chicago City Council when an astute friend said to me, "You are making progress. There seems to be no prejudice against you because you are a professor. And that is saying a good deal." However, since then one of our distinguished colleagues has been called (falsely, of course) the boss of a great city, thus indicating progress in a practical direction.

And this summer, in a conference at Dartmouth, I observed that my social science colleagues, when they wished to express the absolute absence of science in any subject, were wont to say, "Well, of course, that is purely political." Evidently the "purely political" has diverse meanings.

We are even solemnly warned that politics is disappearing. I have read with great interest the comments of those who seem to believe that we are about to pass into a world from which the wicked spirit of politics has been exorcised, into a depoliticized, denatured state—no, not state but status—in which nonpolitical rule has taken the place of the outlawed scape-goat once called politics. It is easy to understand what these writers feel and sometimes even what they mean, but I am unable to share their convictions, and it is difficult to escape the conclusion that they are deceiving themselves with euphonious verbalisms. Whether the ruling authority is called economic, or social, or political, or

by some other name hereafter to be determined, a set of relations similar to those of politics seems to be inevitable. Whether the world is righteously pluralised, or unrighteously unified, or otherwise, the astute gentlemen who wield the power will be the last to worry over names. What king cares what his scepter is called? Not only this, but as the complexity of social relations increases there will in all probability be more politics before there is less; more governmental rules and regulations before there are fewer.

It is not unlikely, however, that there may be radical changes in the general character of our study of government. Laws, ordinances, rules and regulations, decisions, dictums, dissents, budgets, taxes and debts, capitol buildings, poor-houses, governmental reports, erudite treatises in imposing bindings—these are politics it is true, but not all of it. Whatever it may become in print, in real life politics is vivid in tone and color. Its flavor is in no sense mild and bland, but meaty, savory, salty. It may be conceded frankly that some political discussions have as little relations to life as some treatises, shall we say, in economics—in the earlier period, of course. But politics itself is full of life and action, of dramatic situations and interesting moments.

It sometimes seems that we political scientists take ourselves and our subject too soberly, although I grant that we have never been called the dismal science. My fellow-townsman, Mr. Dooley, was one of the greatest teachers in politics in his time, although he was never awarded a doctor's degree, *honoris causa* or otherwise. No one of us has ever even written a dissertation on the important function of humor in political affairs. Even the delightful Leacock is tremendously serious about politics, about imperial politics. I have sometimes thought it would be worthwhile to write a history of political unreason, folly and prejudice, in order to balance sundry discourses on political theory, and to offset the possible conclusion from them that all political action is likely to follow the lines of thought indicated by the great masters of systematic political speculation.

The truth is that we students of politics work under some difficulties. We are expected to be practical, but if we were

actually to expound existing practice, our work, unlike that of the custodians of military science, would necessarily be rearranged materially. I was once asked for my memorandum on grafting by an incoming official whose reputation for the development of what economists sometimes call the acquisitive instinct was somewhat greater than that for scientific objectivity, but felt obliged to refuse. We do not teach all that we have learned and are driven to teach sometimes what we are not so sure of. Otherwise we should have manuals on the art of grafting, urban, rural, state, national and otherwise; or courses in demagogery with special reference to local conditions; or perhaps research in bootlegging with criminal law and chemistry as prerequisites; or seminars in tax dodging, with economics, statistics and accounting required; or on deception and intrigue, with ethics and diplomacy expected.

There is, in sober fact, no reason why courses might not be given in many categories of political action as legitimate as the nine set types of legislative, executive and judicial, or local, national and international, or monarchical, aristocratic and democratic. We might have studies in the use of force in political situations, and its opposites, passive resistance and noncoöperation. We might consider the nature of political interests; we might discuss the use of magic, superstition, and ceremonialism in politics; we might inquire into propaganda; into the actual process involved in conference, so significant a function in modern affairs; or the maintenance of political morale; or leadership, obedience, coöperation; or the causes of war as well as its diplomatic history and law. We might conceivably develop a wide variety of similar types of political situations and processes, quite apart from the established nine categories, and perhaps corresponding more closely to the facts of political life. The interesting thing about such studies is that while they are primarily political, they have an application to many other forms of social organization; and, if they could be further developed, they would tend to throw light upon many types of social processes. These, I concede, are not orthodox windows, but it might be possible to see through them or others like them. All architecture need not be Gothic.

Some day we may take another angle of approach than the formal, as other sciences tend to do, and begin to look at political behavior as one of the essential objects of inquiry. Government, after all, is not made up merely of documents containing laws and rules, or of structures of a particular form, but is fundamentally based upon patterns of action in types of situations. The political artist is entirely familiar with many of these patterns, and develops a form of control based on them. But the student is likely to be so oppressed by the weight of forms and structure, of rules and rulings, that he cannot look behind erudition and sophistication into the forces, rational and otherwise, upon whose interplay any system of order rests, and in whose reorganization intelligence might play a more important part. The selection of problems for scientific analysis is, after all, one of our greatest tasks, and they do not always follow the lines of established institutions. Problems often cluster around institutions, but it is also true that institutions may be built around problems. Variations in social life force us to revise or reconcile old attitudes or conduct with the new; and here we come upon new problems, new theories, new institutions perhaps.

It seems to me that we are on the verge of significant changes in the scope and method of politics, and perhaps in the social sciences as a whole.

The relation of politics to statistics I have discussed elsewhere and perhaps need only pause to indicate my hearty approval of the admirable address of Mitchell before the American Economic Association last year. The quantitative study of economic and other social phenomena holds large possibilities of fruitful inquiry, providing of course that the numbers and measurements are related to significant hypotheses or patterns. Even where categories may not be fundamental, as that of price in economics or the vote in politics (both symbols of situations), or are frankly fictitious or provisional, the statistical analyses may serve a useful purpose.

Whatever other advances are made, two appear to be inevitable. One is toward greater intensity of inquiry, and the other is toward closer integration of scientific knowledge centering around political relations.

Most students of government are spread out so broadly over so wide a field that they are likely to get aéroplane views rather than the high-power microscopic examination of problems that is so essential to penetrating understanding. This is perhaps unavoidable in a transition period where personnel is small, and where desperate situations clamor for emergency action rather than research. But in the longer reach of time, closer concentration will come. Indeed it is now appearing.

Likewise we are likely to see a closer integration of the social sciences themselves, which in the necessary process of differentiation have in many cases become too much isolated. In dealing with basic problems such as those of the punishment and prevention of crime, alcoholism, the vexed question of human migration, the relations of the negro, and a wide variety of industrial and agricultural problems, it becomes evident that neither the facts and the technique of economics alone, nor of politics alone, nor of history alone, are adequate to their analysis and interpretation.

In reality, politics and economics have never been separated, or at least not divorced. There is rarely, if ever, a political movement without an economic interest involved; or an economic system in the maintenance of which the political order is not a vital factor. There was a strong flavor of tea and taxation in our revolutionary bills of rights, and there is a definite relation between investments and political order today. The oft-repeated fallacy that democracy was once concerned only with political forms, neglects the factor of land in early democratic struggles, forms, neglects the factors of land and taxation in early democratic struggles, corresponding somewhat to the industrial factor in our own day.

One of the basic problems of social organization is that of the relation between economic and political units of organization and authority. It affects the character of our urban, state, national, and international organization. But is this economics or politics?

Again, there are many methods of dealing with social deviations —through law, religion, economic and social sanctions. But how are these brought together in a pattern of human conduct? Is this a problem of any one discipline; and are not grievous errors

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due to the effort to separate these threads without bringing them together again?

After all, it does not seriously matter what this integration is called, whether sociology or *staatswissenschaft* or anthropology or economics or politics. The essential consideration is that the point of view and the contacts are obtained and sustained in the various fields of social inquiry; that twilight zones are not allowed to lie neglected; that partial treatment does not twist and warp the judgment of social observers and analysts. The problem of social behavior is essentially one problem, and while the angles of approach may and should be different, the scientific result will be imperfect unless these points of view are at times brought together in some effective way, so that the full benefit of the multiple analysis may be realized. There is grave danger, however, that these precautions may be neglected and the special disciplines in the social fields may be ignorant each of the objectives, methods, and results of the other, and that much overlapping and inadequacy will result. Our allies the sociologists have undertaken to remedy this situation by a brave attempt to develop a broader point of view and a wider synthesis, and in many ways they have rendered valuable service. But certainly we have not yet arrived.

Still more serious for the student of politics is the integration of social science with the results of what is called natural science—the reunion of the natural and the “non-natural” sciences. For more and more it appears that the last word in human behavior is to be scientific; more and more clearly it becomes evident that the social and political implications of natural science are of fundamental importance. It even seems at times that this is more evident to the natural scientists than to the social scientists, who at times concede the impossibility of more scientific social control of human conduct.

Biology, psychology, anthropology, psychopathology, medicine, the earth sciences, are now reaching out to consider the application of their conclusions to social situations. Their representatives have arrived in Congress, in the workshop, in the court, in the field of personnel. What shall be the attitude of politics and

social sciences to these new developments and these new challenges? Shall we hold them in contempt of court, these irreverent natural scientists, or shall we ostracize them till they submit to our laws; or shall we outvote them; or shall we merely ignore them, and go our way? No, we cannot leave them, for alas, the natural scientist may be as full of social prejudices as an egg is full of meat; and not a few indeed are compounded of social views now a generation old and the present prejudices of their immediate entourage, economic and social. If they are to govern the world they must and doubtless will learn more of politics and social relations. Perhaps they are more impressed with the significance of the social implications of natural science than we are.

We cannot avoid the question whether there is any relation between the psychological and biological differentials and systems of government. The nature and distribution of human equality has been recently explored by inquiring psychologists, and politics cannot escape the examination of the implications of these studies. The somewhat disorganized state of psychology, and the rashness of some of its champions in flourishing these I. Q.'s need not blind us to the fundamental character of the problems that are being raised.

Have modern scientific doctrines regarding heredity and eugenics any bearing upon the foundations of our political and economic order? Childs, in his physiological foundations of behavior, and Herrick, in his neurological foundations of animal behavior, have raised many interesting problems on the border line of political conduct. What relation have they to our quest for political truth?

What bearing have the earth sciences such as geology and geography on the problems of politics? What rôle does environment play in the complex product of government? At what point shall the geneticist, the environmentalist, and the student of social and political control come together, combine their results, and start anew?

What shall we do with the wide areas of irrelevancy disclosed in the background of much of our social thinking? We are familiar with the economic interpretation of politics, but are there not

other unsurveyed areas of equal importance? Dr. Mayo would say, I suppose, if a man is a violent radical or reactionary, do not argue with him; send him to the clinic. You may relate this obsession or hysteria to spasticity of colon, or a disordered salt balance, or blood pressure, or lack of "relevant synthesis," or a twisted experience, or other medico-psycho-pathological cause of the type so impressively laid before us, and sometimes with such convincing results. What is the effect of fatigue, diet, emotion, upon certain types of political thinking and action? Sooner or later we shall find it necessary to survey these wide reaching areas of irrelevancy in political thinking and determine their relation to political behavior and political control. The process may be delayed, but in the long run it cannot be avoided.

What is the bearing of certain primitive survivals of human political and social nature of the early types found by anthropologists? I am not suggesting any relationship between a nominating convention and an Indian war dance, but there are better cases.

Is it possible to build up a science of political behavior, or in a broader sense a science of social behavior with the aid of these new elements, of these newly developing materials? Perhaps not, in their present ragged form; but looking forward a little, there are many interesting possibilities.

At any rate, it becomes increasingly evident that the basic problems of political organization and conduct must be resurveyed in the light of new discoveries and tendencies; that the nature of mass rule must be reexamined; that the character and range of popular interest in government and the methods of utilizing it must be reexplored; that we must call in science to help end war as well as to make war; that the mechanisms and processes of politics must be subjected to much more minute analysis than they have hitherto received at the hands of students of government, from a much broader point of view, and from different angles.

The whole rationale and method of government is involved in these days of Lenins, Mussolinis and Ghandis on the one hand and Einsteins and Edisons on the other. Out of what material

shall be woven the political fabric of the next era, if not from more intelligent and scientific understanding and appreciation of the processes of social and political control? If scientists cannot help, there are many volunteers who will offer their services, and some may be both pig-headed and rough-handed.

The particular pattern of problem, the special form of technique, whether statistical or anthropological or psychological or other logical, is not important; or what the product is labelled. But this is fundamental—that politics and social science see face to face; that social science and natural science come together in a common effort and unite their forces in the greatest task that humanity has yet faced—the intelligent understanding and control of human behavior.

It may well be urged that greater intensity of inquiry and greater breadth of view are wholly impossible; in short, that the new integration cannot be realized. Alas, this may be true. It may well be said, how can one man know anything useful about law, politics, medicine, psychology, economics, sociology, statistics, and so on? How indeed can he? On the other hand, how can he know about politics and be ignorant of the fundamental factors in human behavior? The dilemma of politics is characteristic of our time, and perhaps our time itself is impossible. One of the great tragedies of our age is the high specialization of knowledge and the lack of unity in central wisdom. The shadow falls over the whole of our thinking and behavior. But this problem is not peculiar to politics; it runs through modern life. I do not know the answer; for either to proceed in ignorance of what we ought to know, or to attain that knowledge seems equally difficult, and necessary.

After all, men trained in one special technique with a broad background of contacts and relations in many others will find their way through what may now seem only a maze. We may find it necessary to begin social training earlier and pursue it longer. Yet if Governor Smith can direct the attention of Tammany Hall to the importance of science in relation to government, as he did in his striking communication of last September, surely the pioneers in the field of political research need not

tremble and twitter for fear they may be regarded as too far ahead of the times.

I am not optimistic of any type of promised land of politics such as that sketched by Plato, or later in the broader field of social relations by Comte. These were complacent philosophical gestures conjuring new worlds from airy hypotheses, unverified and with no verification sought. We may be happy in the comfortable obsession that the startlingly imminent approaches to the penetralia of biological and psychical nature will bring with them immeasurable opportunities for more intimate understanding of the political behavior of men, in forms and ways which not even the hardiest forecaster would venture to predict.

A freer spirit, a forward outlook, an emancipation from clinging categories now outgrown, a greater creativeness in technique, a quicker fertility of investigation, a more intimate touch with life, a balanced judgment, a more intense attack upon our problems, closer relations with other social sciences and with natural science,—with these we may go on to the reconstruction of the “purely political” into a more intelligent influence on the progress of the race toward conscious control over its own evolution.

In any case, this is not the task of a day. None of those who formed the Political Science Association twenty-one years ago will see a revolution in political or social science, and perhaps our present dream is only one more of those dominant but deceitful reveries so common in all walks of life. Fundamental readjustment is the problem of another and younger generation, now happily moving forward to take over an unfinished work. We welcome them—those who will celebrate the Association's next cycle of twenty-one years—as they take their seats in our meetings and councils, with a brooding interest and affection they cannot surmise. We rely confidently on their insight, technique, judgment, and vision to effect the more perfect development of a science on which we labored long but left so much to do.

LATIN AMERICA AND THE LEAGUE OF NATIONS

PERCY ALVIN MARTIN

Stanford University

To students of international relations it has become almost a commonplace that among the most significant and permanent results of the World War has been the changed international status of the republics of Latin America. As a result of the war¹ and post-war developments in these states, the traditional New World isolation in South America, as well as in North America, is a thing of the past. To our leading sister republics is no longer applicable the half-contemptuous phrase, current in the far-off days before 1914, that Latin America stands on the margin of international life. The new place in the comity of nations won by a number of these states is evidenced—to take one of the most obvious examples—by the raising of the legations of certain non-American powers to the rank of embassies, either during or immediately after the war. In the case of Brazil, for instance, where prior to 1914 only the United States maintained an ambassador, at the present time Great Britain, France, Italy, Belgium, Portugal, and Japan maintain diplomatic representatives of this rank.

Yet all things considered one of the most fruitful developments in the domain of international relations has been the share taken by our southern neighbors in the work of the League of Nations. All² of the Latin American republics which severed relations with

¹ It will be recalled that eight of these republics,—Brazil, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Nicaragua, and Panama,—declared war against Germany; and that four—Bolivia, Peru, Ecuador, and Uruguay—severed diplomatic and commercial relations. Cf. P. A. Martin, "Latin America and the War," *League of Nations*, August, 1919.

² An exception should be made in the case of Costa Rica. Although the Costa Rican government had declared war against Germany, it was unrecognized by the United States or the nations of the Entente and its delegates were not admitted to the Peace Conference. In 1920, however, Costa Rica was admitted to the League.

Germany or declared war against that country were entitled to participate in the Peace Conference. As a consequence, eleven³ of these states affixed their signatures to the Treaty of Versailles, an action subsequently ratified in all cases except Ecuador. Since the Covenant was an integral part of the Peace Treaty, these powers also became members of the League of Nations. By the terms of an annex to the Covenant other states were invited to join the League. Among these were Argentina, Chile, Colombia, Paraguay, Salvador and Venezuela, all of which accepted. With the exception, therefore, of Mexico, Ecuador, and the Dominican Republic, all of the Latin American republics are at the present writing members of the League of Nations.

Unfortunately, space will permit only a brief discussion of the share of the Latin American powers in the activities of the League. It should be made clear at once that the majority of these countries have evinced a sincere desire to further the work of the League within the limits of their capacity. Although no one would pretend that the rôle which they have played in the meetings of the Council and Assembly has been decisive, it has not been lacking in importance or dignity. Representing thirty-six per cent of the total membership, Latin America's participation in the League, in point of numbers alone, has been impressive.⁴ A glance at the personnel of the important committees and at the names of the presidents and vice-presidents of the Assemblies will reveal the presence of some of the most distinguished men in the public life of the states to the south of us. It is worthy of record that Latin America has been represented as a nonpermanent member of the Council ever since the League came into existence.⁵ The Latin American delegates also took an active

³ Bolivia, Brazil, Cuba, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, and Uruguay.

⁴ On November 10, 1920, a resolution was presented to the First Assembly signed by fourteen of the Latin American states, Spain, Great Britain, Switzerland, and Belgium, proposing that Spanish be considered one of the official languages of the Assembly. This body voted against this proposal partly on the grounds that the use of a third official language would entail unnecessary expense. League of Nations, *The Records of the First Assembly*, pp. 172-173, 219-223.

⁵ In fact, Brazil had the honor to be mentioned in Article 4 of the Covenant itself as one of the nonpermanent members of the Council until the First Assembly could elect others.

interest in the creation of the Permanent Court of International Justice. In the election of the eleven judges constituting this court two Latin American jurists, Dr. Antonio Sánchez de Bustamante of Cuba and Dr. Ruy Barbosa of Brazil were chosen on the first ballot.⁶

In our discussion of Latin America's relation to the League only two episodes call for special mention. The first was the demand of Bolivia for a revision of the treaty of 1904 with Chile. It will be recalled that the purpose of this instrument had been to settle, it was hoped once for all, difficulties between the two countries growing out of the War of the Pacific. The most important provision of the treaty was the recognition on the part of Bolivia of Chile's ownership of the former Bolivian province of Antofagasta, in return for Chile's promise to construct a railway line from Arica to La Paz. But the Bolivians had never been satisfied with the treaty, which debarred their country from all access to the sea. At the meeting of the First Assembly Bolivia asked to have placed upon the agenda of the Second Assembly her demand for the application of Article 19 of the Covenant to the Treaty of 1904. This article provides:

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

Bolivia's demands for a revision of the treaty were based on the contentions that the treaty had been imposed by force, that Chile had failed to carry out its fundamental articles, that existing conditions constituted a menace of war, and that as a result of the treaty Bolivia had been denied all access to the sea.⁷

The Chilean delegation, headed by Sr. Agustín Edwards, was unalterably opposed to the consideration of the Bolivian demands by the Assembly. In an address delivered on September 7, 1921,

⁶ On the death of Ruy Barbosa (March 1, 1923) Dr. Epitacio Pessoa, former President of Brazil, was elected one of the judges of the court.

⁷ League of Nations, *Records of the First Assembly*, Annex A, pp. 595 ff. República de Chile, Ministerio de Relaciones Exteriores, *Chile y la Aspiración de Bolivia a Puerto en el Pacífico* (Santiago, 1922), p. 47.

Sr. Edwards insisted on the absolute incompetency of the League to revise existing treaties. Such a right, if exercised, would mean that the League would have to take upon itself the task of revising the map of the world "and this League, created to consolidate peace, which is based on the respect for treaties, would unchain universal war." Article 19 of the Covenant is not pertinent, as the Treaty of 1904 is in no sense inapplicable and is not a menace of war. Sr. Edwards also pointed out that by the terms of Article 21 of the Covenant, dealing with regional understandings like the Monroe Doctrine, the Assembly had no competency in purely American affairs such as those brought forward by Bolivia.⁸

After hearing the arguments of Sr. Edwards and the replies of the Bolivian delegates the Assembly was apparently in some doubt as to its competency to deal with this question. At the instigation of President Van Karnebeck, both the Chilean and Bolivian delegates finally agreed that the question should be submitted to a commission of jurists, who on September 21 reported that "the demand of Bolivia was inadmissible, as the Assembly of the League of Nations cannot modify on its own accord any treaty, such modification being solely within the competency of the contracting states."⁹ Bolivia accepted the decision of the commission, at the same time reserving the right to bring up the question in the future.¹⁰ Up to the present writing she has made no further effort to assert this right.

The other episode which demands brief discussion was the sudden and spectacular withdrawal of Argentina's delegation from the meeting of the First Assembly and her abstention from later meetings of this body. Although the action of Argentina has been the occasion of much comment and discussion, the full history of the relations of the Platine republic to the League yet remains to be written. Only the larger aspects of the problem will be noted here.

⁸ *Chile y la Aspiración de Bolivia a Puerto en el Pacífico*, pp. 47, 50-56. League of Nations, *Provisional Verbatim Report of the Second Assembly*. September 7, 1921, pp. 1-3.

⁹ *Chile y la Aspiración de Bolivia*, p. 63.

¹⁰ *Ibid.*, p. 68.

At the conclusion of the war there seemed every reason to believe that Argentina would be one of the most enthusiastic champions of the League of Nations. Dr. Honorio Pueyrredón, the minister of foreign affairs, and chief of the delegation to the First Assembly, had been throughout the war a staunch supporter of the Allies. This was likewise true of Dr. Marcelo T. de Alvear,¹¹ at that time minister to France and also a member of the Argentine delegation. The government itself took an active interest in the organization of the League. As early as July 12, 1919, only two weeks after the signing of the peace treaty, the Buenos Aires foreign office instructed the Argentine minister in France that the "Executive Power has determined to adhere to the League without any reservation."¹² It should also be noted that this step was taken without any official sanction of the Argentine Congress.¹³

But shortly after the opening of the Assembly in the autumn of 1920 it became clear that President Irigoyen was disposed to modify Argentina's "unconditional adhesion" of the previous year. On November 17, Sr. Pueyrredón, acting on instructions from his government, outlined certain proposals whose adoption Argentina regarded as essential. These proposals were: (1) the admission of all sovereign states to the League, should they desire to become members; (2) the election of all members of the Council by a majority vote of the Assembly instead of giving permanent tenure of five places to the great powers; and (3) the establishment of a permanent court of international justice, joined with the principle of compulsory arbitration and compulsory jurisdiction.¹⁴

¹¹ It is perhaps superfluous to point out that at the present time (1925) Dr. Pueyrredón is Argentine ambassador to the United States and Dr. Alvear president of the republic.

¹² E. S. Zeballos, "La República Argentina en la Liga de las Naciones," being a series of editorials appearing in *La Prensa* in 1920 and 1921, p. 8.

¹³ The Argentine constitution explicitly provides that no treaty can be valid without the sanction of Congress. All the other American powers adhering to the Covenant—an integral part of the Treaty of Versailles—submitted the organic charter of the League to their respective parliaments for discussion and approval.

¹⁴ League of Nations, *Records of the First Assembly* (1920), pp. 87 ff.

These proposals call for no detailed analysis. At this juncture, with the League barely launched on its hazardous career, their adoption would have been both inexpedient and injudicious. It was generally recognized that eventually Germany would be invited to adhere to the League; but in 1920 the time was unpropitious. The adoption at this time of the second proposal would have gravely compromised the usefulness of the League. The success of the League necessarily depended upon the extent to which the great powers were willing to lend their support and coöperation. Such support would certainly have been weakened were the membership of the Council to be entirely determined by the votes of the forty-odd¹⁵ powers which then made up the Assembly. The third proposal, if presented alone, would have won much support, as it anticipated the efforts of the Assembly to draw up a plan for a World Court.

It should be noted that the Argentine delegation did not submit these proposals in the form of amendments. It preferred to await the action of the Assembly on a number of amendments submitted by the Scandinavian delegates, which had as their chief objectives the strengthening of the principle of compulsory arbitration and a more democratic method of selecting members of the Council. The question as to whether or not the Covenant should be amended was submitted to Committee I (on amendments) for study and report. On being informed of this action by Sr. Pueyrredón, the Argentine foreign office instructed the delegation not to participate in the labors of the Assembly in any manner until a definite and categorical announcement had been made in reference to the admission of all sovereign states to the League. In case of refusal to act upon the Argentine proposals, or in the event of an adjournment of their consideration, the Argentine delegation was immediately to withdraw, after having presented a note in which were explicitly set forth the point of view and ideals which Argentina upheld in this hour "pregnant with significance for the destinies of civilization."¹⁶

¹⁵ At the present time (1925) fifty-five powers are members of the League.

¹⁶ Torello (acting minister of foreign affairs) to Pueyrredón, November 20, 1920. *Revista Argentina de Ciencias Políticas*, 1921, p. 156.

This intransigent attitude of the Argentine Executive aroused the misgivings of the delegates. On November 23, Sr. Alvear recalled to the President that as a consequence of Argentina's unreserved adhesion to the League she had assumed the obligations of an active member. Modifications of the Covenant such as the Argentine government proposed could be adopted by the League only in the manner specifically provided by the constitution of that body. Moreover, both the adhesion to the League and the withdrawal from it were matters of such transcendent moment that responsibility for them should be shared by Congress. Separation from the League in the manner envisaged by the government would embark Argentina on a dangerous international policy.¹⁷ Sr. Pueyrredón, although not going as far as his colleague, also deprecated the idea of a rupture. He was confident that all the sovereign states, including Austria and Bulgaria, would be invited to join the League. This invitation, to be sure, was not to be extended to Germany and Mexico; but these states had manifested no desire to be admitted. "As a consequence," he wrote, "our wish will in point of fact be realized; the Argentine theory is triumphing in the world conscience."¹⁸

In reply to these dispatches the Buenos Aires foreign office reiterated in a peremptory manner its previous instructions relative to Argentina's withdrawal in case her demands were not met in full.¹⁹

On December 2, 1920, at its twelfth plenary meeting, the Assembly listened to the report of Committee I, to which had been referred all amendments to the Covenant. The report as presented by Mr. Balfour was against the consideration of any amendments at the present session. It was freely conceded that the Covenant had its defects; "it was not thought out or inspired by Heaven, immutable and perfect in all its parts, never to be changed, modified or improved." But such changes, at present inopportune, should wait upon the League's greater experience. It was therefore recommended that the proposed amendments

¹⁷ *Ibid.*, p. 454.

¹⁸ Dispatch of November 24. *Ibid.*, p. 157.

¹⁹ Dispatch of November 28. *Ibid.*, p. 160.

"shall not be taken into consideration by the Assembly" and "the Council be invited to appoint a Committee to study the said proposals of amendment." The Assembly adopted a resolution in harmony with Mr. Balfour's report, the only dissenting vote being that of Argentina.²⁰

The adoption of Mr. Balfour's report was the immediate occasion for the withdrawal of the Argentine delegation; this despite the fact that no amendment proposed by the South American republic had come before the committee. None the less, the delegation regarded the committee's adverse report as fatal to its own contentions. It was not so much the fact that the Scandinavian proposals embodied points included in the Argentine program as the fact that the acceptance of the committee's report meant that no amendments to the Covenant—Argentine or otherwise—would be considered by the First Assembly.

At the plenary meeting of December 6, the president of the Assembly read a statement from Sr. Pueyrredón interpreting Argentina's attitude:

Our country saw in the proposed League the birth of a new and beneficent instrument for peace and in the amendments to the Covenant it saw the prospect of coöperation in perfecting the Constituent Charter of the League. . . . We believed that they (the proposed amendments) would be considered at the earliest opportunity, as they are an integral part of the problems which concern the very basis of the constitution of the League. The vote of the Assembly has closed the question. . . . The chief aim of the Argentine Government was to coöperate in the work of drawing up, by means of amendments to the Covenant, a charter in which it was hoped it would be possible to embody the ideals and principles which Argentina has always upheld in international affairs and from which she will never deviate. When once this aim has disappeared, owing to the postponement of the amendments, the moment has arrived for Argentina's coöperation in the work to cease. . . . For the above reasons, and in accordance with the instructions received from my Govern-

²⁰ League of Nations, *Records of the First Assembly* (1920), pp. 246 ff.

ment, I have the honour to inform . . . the Assembly that the Argentine delegation considers its mission at an end.²¹

The publication of the confidential correspondence which passed between Geneva and Buenos Aires on this occasion revealed a sharp divergence of opinion among the delegates on the question of Argentina's policy. On December 3, during the preparation (it would seem) of Sr. Pueyrredón's letter of withdrawal, Srs. Alvear and Pérez²² sent a joint dispatch to President Irigoyen in which they went on record as entirely disassociating themselves from the views of the head of the delegation. After pointing out that the action of the Assembly did not necessarily signify the rejection of the Argentine contentions, they stressed the point that the Argentine proposals were merely placed on the same basis as those of the Scandinavian and other countries, none of which felt called upon to withdraw from the League or to cease to collaborate in its beneficent activities. Argentina's attitude was injudicious and her withdrawal inopportune. In conclusion, they asked the President duly to note their declaration in order to relieve them from all responsibility for the act which had just been performed.²³ President Irigoyen's reply was in the form of a personal letter to Sr. Alvear in which he stated that his and Sr. Pérez's arguments had been fully met in the instructions furnished Sr. Pueyrredón.²⁴ It is worthy of note that these instructions—characterized by President Irigoyen as explicit and categorical—have never been published and in the opinion of the Argentine publicist Zeballos were never written.²⁵

The spectacular withdrawal of Argentina naturally gave rise to many comments, the great majority unfavorable. With the exception of the government mouthpiece, *La Epoca*, the press

²¹ *Ibid.*, pp. 276-277. On December 6, two days after the date of Sr. Pueyrredón's letter of withdrawal, the Argentine motion for the admission of all sovereign states to the League came before the Assembly and was disposed of in the manner recommended by Mr. Balfour's committee. *Ibid.*, pp. 279 ff.

²² Sr. Pérez, the third member of the Argentine delegation, was also Argentine minister to Austria.

²³ *Revista Argentina de Ciencias Políticas*, 1921, pp. 435-436.

²⁴ Dispatch of December 30, *Ibid.*, pp. 436-437.

²⁵ Zeballos, *passim*.

of Buenos Aires judged the attitude of the President severely. Thus *La Nación* declared on December 6:

Like the conquered peoples we remain outside of the League. While for them this situation is a tragic result of defeat, while for the United States it is a complication growing out of the Treaty of Versailles, which as a victorious nation she was at liberty to accept or refuse, . . . for us it is a flight, it is something more grave than a defeat; it is a subject of ridicule.

President Irigoyen's hope that the public opinion of the remaining Latin American countries would rally to his support likewise proved deceptive. None of the Latin American nations represented in the League evinced the slightest disposition to follow Argentina's example. The pronouncements of the leading public men in these countries were almost uniformly unfavorable.²⁶ Dr. Rodrigo Octavio, head of the Brazilian delegation, described the withdrawal of Argentina as a "desertion."²⁷ Sr. Alejandro Alvarez, the well-known Chilean authority on international law, declared it was a case of Argentina being wounded in her self-esteem (*amour propre*).²⁸ Fully as caustic were the comments of the statesmen and publicists of Europe. For example, Lord Robert Cecil, while expressing sympathy with the Argentine proposals, added that "if every member of the Assembly were to take the line which the Argentine delegation has taken, no progress would have been possible."²⁹

There is some ground for the belief that President Irigoyen felt that Argentina had withdrawn, not from the League, but merely from the Assembly, and that such withdrawal was purely temporary. On these points, when questioned by a representative of a New York daily, he refused to commit himself.³⁰ But if the President is to be judged by his actions rather than his utterances

²⁶ As a striking exception may be noted the utterances of the Chilean historian, diplomat, and senator, Sr. Gonzalo Búlnes. He warmly supported Argentina's action and urged the withdrawal of Chile as an act of solidarity with her eastern neighbor. *Associated Press* dispatch of December 23, 1921.

²⁷ Zeballos, p. 84.

²⁸ *Ibid.*

²⁹ League of Nations, *Records of the First Assembly* (1920), p. 278.

³⁰ *Ibid.*, p. 78.

he may well have regarded the break as definitive. During the remainder of his term of office the work of the League was persistently ignored. Argentina refused, for example, to participate in the International Labor Conference held at Barcelona in 1921,³¹ nor did she make any move to meet her quota of the League's budget. Whatever may have been the juridical relations between the South American republic and the League of Nations, the *de facto* severance seemed to be complete.

It is not easy to arrive at any satisfactory interpretation of President Irigoyen's intransigent attitude. The explanations as given in the correspondence exchanged with the Argentine delegates shed little light on the problem. They are for the most part confined to cloudy generalizations on the necessity of all sovereign states being treated on a plane of equality and on the rôle which should devolve upon Argentina in the world-dispensation. Thus in his note of December 30, 1920, to Sr. Alvear, President Irigoyen declared:

We are trying to assure and consolidate the personality of Argentina in the international order by placing it in a temple of honor, right, and justice.³²

In so far as the policy of the Argentine executive lends itself to analysis, it reveals an oscillation between a fervid, though impractical, ideology on the one hand and an intense and parochial nationalism on the other. There is reason to believe that the President hoped that Argentina might assume a leadership among the Latin American powers in demanding that the League be reorganized upon an absolutely democratic basis. In this he failed, just as he had failed to assemble during the course of the war a Congress of Neutrals under the auspices of Argentina. Neither during the World War nor at Geneva did Argentina's foreign policy reveal a firm grasp of political realities.

With the completion of President Irigoyen's term of office came the opportunity to end what many Argentines regarded as an humiliating situation. In 1922 was elected to the presidency

³¹ *Le Temps*, March 11, 1921.

³² *Revista Argentina de Ciencias Políticas*, 1921, pp. 436-437.

Dr. Marcelo T. de Alvear, the member of the Argentine delegation who had most strongly deprecated his country's withdrawal from the League. As a result of his urgings the Chamber of Deputies in 1923 voted Argentina's quota for the expenses of the League and in June, 1924, in his annual message, he urged Congress formally to sanction Argentina's adhesion to this body. It seems only a question of time, therefore, until Argentina will take the place in the deliberations at Geneva to which her influence and prestige entitle her.

While the post-war years have unquestionably brought improvement in the relationships between the United States and her sister republics, at the same time it can hardly be doubted that the World War has created, or rendered more acute, certain problems whose solution is indispensable if these gains are not to be lost. Of these problems perhaps the most baffling is the relation of the League of Nations to the Monroe Doctrine. The place of this cardinal principle of American diplomacy in the new dispensation was indicated by President Wilson in his address to Congress on January 22, 1917, in which he proposed that "the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world; that no nation should seek to extend its policy over any other nation or people, but that every people should be left free to determine its own policy, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful." This idea was reflected in Article x of the Covenant according to which "the members of the League undertake to respect and preserve against external aggression the territorial integrity and existing political independence of all members of the League."

When the terms of the Peace Treaty became known Article x was the object of bitter attack in the United States on the ground that its acceptance would mean the end of the policy of non-entanglement in European affairs. It was also charged that with the extension of the Monroe Doctrine it would cease to be the "time-honored, self-protective policy of the United States." A distinguished American diplomat even wrote of the "betrayal

of the Monroe Doctrine."³³ The framers of the Covenant had hoped to anticipate the objection that Article x would deprive the Monroe Doctrine of its American character through the inclusion of Article xxi which declared that nothing in the Covenant "shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace." Yet, even with this interpretation, Article x was unacceptable to many members of the Senate and was one of the reasons for the failure of the United States to ratify the peace treaty.

The present situation is fraught with disquieting possibilities. By the terms of the Covenant all but three of the Latin American nations share with each other and with the remaining members of the League certain duties and obligations from which the United States is excluded. By the terms of Article x their territorial integrity and political independence are guaranteed by a body of powers, the majority of which are non-American. By Articles XIII and XV of the Covenant the members of the League agree to submit all disputes likely to lead to a rupture to arbitration or to inquiry by the Council of the League. Should any of the Latin American nations belonging to the League decide to submit such disputes to the Council without reference to the United States, or, in case of conflicts with other powers, elect to appeal to the League for protection by virtue of Article x, the problem would at once arise as to whether or not the United States would abandon the Monroe Doctrine to the extent of permitting a body of powers to which she did not belong to settle controversies to which other American states were parties. Though a satisfactory answer to this question can hardly be offered at the present time, one may hazard certain conjectures. There would apparently be no disposition on the part of the Washington government to object to recourse to the good offices of the League on the part of any of the South American powers, provided the interests of the United States were not directly involved in the

³³ David Jayne Hill, "The Betrayal of the Monroe Doctrine," *North American Review*, November, 1920.

controversy. There is no evidence, for instance, that the United States opposed the attempt of Bolivia to secure a revision of the treaty of 1904 with Chile through the agency of the First Assembly of the League.³⁴ And it is hardly necessary to recall that in the past the Latin American republics have repeatedly submitted their boundary disputes to the arbitration of European powers.

It is a fair assumption, however, that the attitude of the Washington government would be radically different were any of the Central American or Caribbean republics involved. The boundary controversy between Costa Rica and Panama early in 1921 is important in this connection. On February 28, the General Secretary of the League instructed the advisers of the Council to investigate the dispute between the two Central American republics on the ground that both countries were members of the League. On March 4, the Council sent a cable dispatch to the foreign offices of Panama and Costa Rica reminding them of their obligations as members. Meanwhile, however, as a result of pressure from Washington both states had agreed to accept the mediation of the United States, although Panama denounced to the Council "the repeated acts of violence committed by Costa Rica," which country "deserves the punishment prescribed in such cases by the Covenant of the League."³⁵ Secretary Hughes, on March 14, put an end to all possibility of League action by calling attention to the Panama-Costa Rica treaty of 1915 providing for the submission of disputes to the United States as mediator. The League officials showed an almost indecorous haste in agreeing to this solution of the difficulty.³⁶

In spite of Bolivia's appeal to the Assembly for the revision of her treaty with Chile, there seems little disposition on the part of the Latin American republics, either north or south of the

³⁴ "Sr. Aramayo, for Bolivia, informed the Associated Press that the chancellery of the United States had been consulted regarding Bolivia's application to the League before it was submitted and had decided that mediation by the League was not incompatible with the Monroe Doctrine," *Associated Press*, dispatch of September 7, 1921.

³⁵ Garay to Drummond (dispatch undated). League of Nations, *Official Journal*, (1921), p. 214. Cf. also *New York Times Current History*, Vol. XIV (1921), p. 151.

³⁶ *Ibid.*

isthmus, to utilize the machinery of the League for the solution of exclusively American problems. Highly significant, for instance, was the action in the First Assembly of the Chilean delegation which, basing its contention on Article *xxi*, insisted, as we have seen, upon the absolute incompetency of the League to take cognizance of Bolivia's demand, inasmuch as this was a purely American matter.³⁷ Nor is it irrelevant to recall that when Chile and Peru finally agreed to submit to arbitration their long-standing dispute over Tacna and Arica they preferred the good offices of the United States to those of the League of Nations.

Yet it can hardly be doubted that at the present time the inclusion of both Article *x* and Article *xxi* in the Covenant constitutes a very real dilemma for the Latin American members of the League. It might conceivably mean that under certain circumstances a Latin American country would have to choose between the League and the Monroe Doctrine. To call upon the League to guarantee such a country's territorial integrity by virtue of Article *x* might well call forth the active opposition of the United States. To fall back upon the Monroe Doctrine would mean protection from Europe but not necessarily from the United States.³⁸

Various ways out of this *impasse* have been suggested. The adherence of the United States to the League of Nations would undoubtedly clarify the situation, although the exact relation of Article *x* to Article *xxi* would still have to be defined. A project broached by President Balthazar Brum in 1920 may ultimately prove a solution. Dr. Brum advocated an "American League" formed on the bases of the absolute equality of all the associated

³⁷ *Chile y la Aspiración de Bolivia a Puerto de Bolivia en el Pacífico*, p. 47.

³⁸ Dr. Alejandro Alvarez, one of the Chilean delegates to the Third Assembly, in a notable address before that body pointed out certain advantages which in his judgment the Monroe Doctrine had over Article *x*. The latter does not prevent a state from ceding part of its territory or placing itself under the protection of another state; it does not forbid a state defeated in war to cede a part of its territory to the victor; it does not oppose the temporary occupation of the territory of another state as a measure of coercion or reprisals; finally, it does not oppose the intervention of one state in the internal affairs of another. All of these practices, according to Dr. Alvarez, would be contrary to the Monroe Doctrine if one of the states were an American and the other a European. *L'Amérique Latine* (Paris), October 7, 1923.

powers.³⁹ This league would jointly consider all American problems and would undertake to defend each of the members against aggression from Europe or from another American power. All controversies should be submitted to the arbitration of the league. This American League would not be antagonistic to the League of Nations; it might be considered, in fact, as a subcommittee of the latter body for the consideration of purely American questions. The practical results of the acceptance of Dr. Brum's proposal would be the conversion of the Monroe Doctrine into a Pan American doctrine—a course of action long advocated by a number of writers and statesmen of both continents. A league such as the Uruguayan president envisaged would not only be a concrete expression of American solidarity but would reflect the vastly enlarged community of interest between the United States and Latin America brought about by the War.

At least one effort was made to bring President Brum's aspirations within the domain of realities. When the program of the Fifth Pan American Conference, to be held in Santiago in 1923, was being drawn up the Uruguayan government submitted the proposal, "to examine the formation of a league of American nations, without prejudice to the right of adhesion to the League of Nations, this American league to be constituted on the basis of the complete equality of members." This proposal appeared in a somewhat attenuated form as Article ix on the agenda of the programme in its final form.⁴⁰ But the Uruguayan proposal never came to a vote, due almost certainly to the opposition of the United States. In fact, the head of the United States delegation, Ambassador Fletcher, acting on instructions from Secretary Hughes, made it abundantly clear that the United States had no intention of relinquishing her sole right of interpreting the scope and meaning of the Monroe Doctrine and of enforcing it should occasion arise. In this respect Mr. Hughes' point of view

³⁹ "The organization of this League is in my opinion a logical sequence to the Treaty of Versailles, which in recognizing and expressly accepting the Monroe Doctrine seems to be desirous of limiting its sphere of action as far as American affairs are concerned." Quoted by James Brown Scott in editorial on President Brum's address in *American Journal of International Law*, vol. XIV (1920), p. 605.

⁴⁰ *L'Amérique Latine*, April 8, 1923.

did not differ from that of ex-Secretary Root: "Since the Monroe Doctrine is based on the nation's right of self protection, it cannot be transmuted into a joint or common declaration by American States or any number of them."⁴¹

At the present time there is little probability that the Monroe Doctrine will suffer any essential modification as a result of the World War or the establishment of the League of Nations. In theory at least, the Latin American republics will, in certain contingencies, still be confronted with the dilemma of choosing between the League of Nations and the Monroe Doctrine. In practice, however, it seems unlikely that such an embarrassment will arise. As we have already seen, there is a general disposition among the southern republics to withhold purely American problems from the purview of the League, and there is little inclination on the part of the League itself to assume jurisdiction over such problems. In other words, we have a tacit recognition of a comity of American powers in which a certain moral leadership is accorded the United States. But it is hardly necessary to add that in the long run this moral leadership can be maintained only by convincing our sister nations to the south, in the words of Secretary Hughes, that "there is room in this hemisphere, without danger of collision, for the complete recognition of the Monroe Doctrine and the independent sovereignty of the Latin American republics."⁴²

⁴¹ Address before the American Society of International Law, April 14, 1914.

⁴² Observations on the Monroe Doctrine, *American Journal of International Law*, vol. XVII (1923), pp. 611-640.

VOLTAIRE'S POLITICAL IDEAS

PHILIP GEORGE NESERIUS

Ohio State University

Among the men who have profoundly affected the development of mankind and have given their best energies to the promotion of toleration, reason, and justice, Voltaire stands without a peer. Gifted as he so evidently was by nature for intellectual leadership and literary supremacy in France and in Europe, he was never content with these honors alone. His prolonged activity was to mean more to the world than an author's gift of over half a hundred volumes, filled with flashing wit and sparkling with the brightness and charm of a brilliant writer. Upon everything in France Voltaire fastened his keen gaze, and with rare insight and remarkable discrimination he analyzed the situation, devoting his life to an attempt to win recognition of the essential and pressing need of his program of reform.

He had read the history of all nations and of all times, and had studied politics and literature, philosophy and science. He did not always go to the heights and depths of things unknown; he may even at times have been superficial. But with versatility far surpassing that of most mortals, with an adroitness in expression and thought, with flexibility in manner, he used his knowledge and pressed his cause, so that willing homage was paid to his gifts and genius by the man of moderate intelligence, by the philosopher, by the humble citizen, and by the sovereign. Yet, appreciated as Voltaire was by those who realized the importance of his endeavors, he had to submit to indignities from those who could have given him the most assistance. The powers in the state and church alike arrayed themselves against him. He endured the reproach and inconvenience of the *lettre de cachet*; he was an exile from France; he saw his books condemned by civil and papal authority. But through it all he pressed forward

and continued the warfare he had begun to wage. Small wonder if he sought more than once to evade the calumnies, to pander to the prejudices, of the opposition! Yet such seeming relaxations were redeemed by the vigor and sharpness of the new thrusts with which he resumed his life-long warfare. He seemed to come in the fulness of time, and his work was a light to the world. He was "the ideal man for his time";¹ yet "he was more than a man—he was an age, he was universal."²

From early manhood Voltaire had insisted on the privilege of thinking for himself. He would not live in servile submission to the opinions of others, and he demanded like freedom for all men. For centuries countless evils had abounded because reason had not enjoyed respect and recognition. Superstition and fanaticism and intolerance had run riot. As Voltaire himself said: "Superstition is the most dreadful enemy of the race. When it rules the prince, it hinders him from consulting the good of the people; when it rules the people, it makes them rebel against their prince."³ It had long ruled the prince, and, as a result, the nation was in a wretched and deplorable condition. Laws were unfair and inadequate; justice was the lever of the privileged classes; taxes were arbitrary; and the people were ignorant and in misery. This monster superstition, together with its offspring fanaticism, not only possessed the state, but the church as well. The outcome the world knew. It was written on the pages of history in countless wars of wild fury and savage slaughter. The country, heir of its past, was swarming with contradictions. It was "a region of wit and folly, of industry and sloth, of philosophy and fanaticism, of gayety and pedantry, of laws and abuses, of just taste and impertinence."⁴ Every institution in the political, social and religious world was contradictory—and all because reason was not enthroned in the place of authority in the state.

The only remedy for this "epidemical madness" which had wrought so much havoc and destruction was the spirit of phi-

¹ Morley, *Biographical Critique*, p. 1.

² Hugo, *Oration on Voltaire*.

³ Voltaire, *Politique et Législation*. Vol. I, Article, "La Voix du Sage et du Peuple."

⁴ Voltaire, *Dialogues*, Vol. I, Dialogue 16.

losophy which, if permitted, would extend from one end of France to the other, soften the manners and prejudices of men, and prevent the progress of that dread disease, superstition. More laws and more religion would not alone effect the changes necessary. Reason must reform the laws; reason must reform the abuses committed in the name of religion. Thus Voltaire ever attempted to teach men to hate superstition and injustice. He entreated those who had the reins of government in their hands, or those who were destined to fill the highest stations in the state, to examine for once whether there need be any apprehension that toleration and justice would occasion the same sufferings as rebellion and cruelty. Some, he said, pretend that humanity, indulgence, and liberty of conscience are horrible things. He would ask such persons if they could have produced calamities and irregularities comparable to those brought about through oppression and constraint.⁵ In this way he made an appeal to reason and advocated a rational adjustment of what had been corrupted and distorted by a neglect of reason.

The best justification of Voltaire's argument for reason was its universal absence in the governments of Europe. By painful personal experience he had learned that arbitrariness and injustice ruled the activities of the state, and the events of his life strengthened his disgust and his antagonism toward the current oppression. No one circumstance which brought him into conflict with an arbitrary government so influenced his later political principles and ideas as his flight to England. Deprived of the privilege of residence in France by a capricious prince, Voltaire sought refuge across the English Channel. He remained there for three years (1726-29), an eager observer of the philosophical, literary, social, and political life of a free people. He found so many laws, institutions, and customs in such striking contrast to all he had known in France, that his sojourn in England was a never-ceasing revelation.⁶ Harmony, he said, existed between the people and the sovereign, because the king was all-powerful to do good and, at the same time, was restrained from committing

⁵ *Politique et Législation*, Vol. VII, pp. 368-380.

⁶ *Mélanges Historiques*, Vol. 1, "Lettres sur les Anglais."

evil.⁷ He became acquainted with nobles who were great, and yet were not tyrannical and insolent. "A certain power in Parliament but nowhere out of it—with few privileges, is all they enjoy." They also had more substantial, common-sense ideas than the peers of his country, and they did not consider a personal strenuousness beneath their dignity. They did not despise trade and, to the horror of a French lord of Voltaire's time, they actually at times interested themselves in commercial enterprises.

Naturally, Voltaire had his own opinion as to who conferred the more benefit on mankind—the flighty, fashionable French lord who never forgot the exact moment when the king arose or went to bed and who prided himself on doing the most menial task in the king's service, or the English merchant who helped to make his country more prosperous and her citizens happier and wealthier.⁸ Nor did Voltaire find in England, as in France, poor peasants oppressed and burdened unnecessarily in order that the "dancing, flirting, snuff-taking" lords might live a little more luxuriously. On the contrary, the peasants were thrifty, prosperous, and happy. Both the peer and the commoner paid his share of the taxes according to his revenue; each contributed his quota. All English citizens were relieved of the *taille* and other superfluous taxes and, as a result, were happier, and lived more comfortable, wholesome lives than did his own countrymen.

All of these things made a lasting impression on Voltaire. In England he had seen the freedom of the press, the highly honored position of the man of letters,⁹ the respect shown to trades, the tolerance in matters of religion; and, when he returned to France, he was a different man. His visit to England had been a decisive period in his life, and he went back to herald a new régime of freedom and liberty and toleration. In the words of John Morley, before Voltaire had gone to England "he had been a poet; he returned a sage. . . . From the pen-man he had gone to the captain and man-at-arms."¹⁰ Voltaire saw a people happy under

⁷ *Ibid.*, Lettre 9.

⁸ *Ibid.*, Lettre 6.

⁹ *Ibid.*, Lettre 9.

¹⁰ Morley, *Biographical Critique*.

laws which secured to them a liberty of religion and thought and speech beyond the dreams of a Frenchman. He had seen a great light; and he returned to France and, from that time, he knew no rest while a mission of practical sympathy was possible to the oppressed, or an abuse of power could be broken down. His sojourn in England had made him a much more valiant, courageous opponent of abuses and privileges and, from that time on, throughout the years of his long life, he "was an untiring and eloquent advocate at the bar of the Universe of the rights of Humanity."

Unlike Rousseau, Voltaire always considered the existing social and political order safely established and firmly settled. He did not wish to uproot it and overturn it and, out of the confusion and the debris, evolve a fairer, freer society. Voltaire never desired social revolution; but he ardently longed for the happy era when the human understanding would be more keenly intelligent, and would investigate the institutions made by hands, and estimate their values, and transform them, until they became adequately representative of an enlightened and intelligent nation. Thus his efforts were always reasonable and moderate; the result for which he worked through years of weary waiting was a bloodless, peaceful, and gradual extermination of the dire evils to which ignorance and fanaticism had given birth.

With this end in view, Voltaire began his work of analyzing the abuses and privileges rampant in French society. He endeavored to rouse the French nobility from their complacency and lethargy. They might be beacon lights in the reforms which were so imperatively necessary, if they would but respond to the impetus of a public purpose, if they would only be more aggressively patriotic and unselfishly ambitious for the nation. The love of what was noblest, the energy to be public-spirited, the desire for national glory, the pride of intellectual supremacy—all had faded. Many of the lords were content to spend their ill-gotten substance in riotous living, to devote hours to useless service in the royal household, to despise any serious occupation,—except to play cards industriously and to lose sums of money greater than the Romans spent on their theatres. "Where is the

man in Paris," he wrote, "who is fired with the smallest spark of love for his country? We game, sup, and like scandal, compose wretched songs, and fall asleep in order to wake up next day to renew the same circle of levity and indifference." Many nobles thus lived in a grand display of vanity and in a "vicious circle" of luxury, eager for every affectation of power and position, and oblivious to the evils which were a growing menace to the public welfare and to general prosperity.

Voltaire's challenge to these slothful nobles was to awake and to endeavor to insure laws more adequate and just for the good of the whole nation. They should not permit the vast majority of the people to go on suffering from the arbitrariness of those very laws whose purpose ought to be to afford protection to each and all. It would be difficult, he said, to point out a single nation living under good laws.¹¹ It seemed to him that the greater part of mankind had received from nature a sufficient portion of what is called common-sense, and yet the world had not succeeded in securing good laws. Laws had proceeded, in almost every instance from the legislator, from the urgency of the moment, from ignorance and superstition, and had accordingly been made irregularly and at random.¹² The laws in France were as varied as they were arbitrary. In Paris alone, law was interpreted differently by twenty-four commentaries—a proof, by so many times, that it was ill-conceived. Its elasticity had permitted it to stretch almost to the point of breaking. And the law of Paris was in contradiction to one hundred and forty other usages, all having the force of law in the same nation. So a man who travelled was compelled to change his law almost as frequently as he changed his horses.¹³ Reason and enlightenment alone could impress upon men the utter inefficiency of such a system of laws; reason and enlightenment alone could create a public opinion insistent and aggressive enough to demand the necessary reforms.

¹¹ Voltaire, *Dictionnaire Philosophique*, Vol. VI, Article "Lois," p. 66.

¹² *Ibid.*, p. 67.

¹³ *Ibid.*

Next to fanaticism and superstition, and their outcome in disgraceful laws, the injustice of the courts invited Voltaire's scorn.¹⁴ In Paris, and still more in the provinces, legal assassins performed legal atrocities and woefully perverted fairness and justice. Legal murders were committed with remarkable facility, and horrible deeds were done in the name of good order and tranquillity, with the sanction of irrational and incompetent laws. How different Voltaire had found legal procedure across the straits of Dover! In that free land, judges could not deviate from or go beyond the laws. Life-sentences could not be executed before they were reported to the king, for the accused was given a chance to receive pardon from royal clemency and mercy. There, laws were equal for both innocent and guilty.¹⁵ If by chance an illegal imprisonment was made, or an unfair sentence passed, damages must be paid and penalties suffered by the unjust judge. These sane measures, preventive of such distortions of justice as were prevalent in France, Voltaire recommended to the careful, judicious consideration of his countrymen.¹⁶ Trials had become mockeries, because the judges were oftentimes superstitious and influenced by priestly domination, and because they often cared more for the triumph of fanaticism than for the reign of justice. Accused persons had been subjected to torture,¹⁷ innocent victims had been put to the rack on equivocal evidence, lives had been sacrificed on the wheel, all because ignorance was supreme. Men had been condemned to execution who, at the most, deserved only three months imprisonment, and had been prevented in this capricious way from being of any further service to the state. "Ye sages who are scattered over the earth—for some sages there are—proclaim with all your might that the punishment ought to be proportioned to the crime." All perversions of justice, Voltaire reiterated, were crimes, destructive alike to individual security and happiness, and to social welfare and service. Only as the state gave diligent heed to the voice of

¹⁴ *Ibid.*, *Traité sur la Tolérance*.

¹⁵ *Ibid.*, Article "Criminel," pp. 239-241.

¹⁶ *Ibid.*, *Traité sur la Tolérance*, Tome VII, pp. 367-382.

¹⁷ *Ibid.*, Vol. VII, Article "Torture," pp. 391-395.

reason—only as moderation, tolerance, and enlightenment prevailed in tribunals and in laws—would the dawn of a new era of social happiness be possible for all the inhabitants of France.

It was only natural, Voltaire thought, that the Third Estate should have suffered longest and most acutely from the evils of ignorance. Many of the people were reduced to a pitiable lot; many were condemned to a miserable existence, and almost every one was prevented from realizing the fulness, the richness, the satisfaction in life, which ought to be enjoyed in a reasonable state of society. Those who composed the most numerous part of the nation, who were the most virtuous and useful to the state; those who studied, those who enriched the state by the increased output of their despised occupations—those people were burdened, unnecessarily, were taxed beyond what they were able to bear, were in debt, here a little, there a little, and counted magistrates, clergy, and sovereign alike among their heavy creditors. The taxes had steadily become more unreasonable, more capricious, more and more oppressive. The *taille* hindered intensive cultivation of the soil, and it was only one of the many burdens which were based on an erroneous, wasteful, destructive system of taxation. Farmers of the revenue might plunder provincials at their pleasure, and tax-collectors might show favoritism on every hand. Such, in Voltaire's estimation, were real abuses; and against such was his appeal to reason and enlightened common-sense.

It was not that the people ought to refuse to pay willingly a portion of the expenses of the government, for it was just that all those who enjoyed the advantages of a government should contribute to support its charges.¹⁸ But it was wholly unreasonable that money should be forced from the people so that a score of nobles or princes might waste it in prodigality and in frivolous expenditures. All should pay alike, in proportion to their wealth or poverty—nobles and ecclesiasts, bourgeoisie and peasants. If every individual would do his part in the state, if the rich would pay more because they had more means at their disposal, if a greater number experienced in their own persons the satisfaction

¹⁸ *Ibid.*, Vol. V, Article "Impôt," pp. 335-342.

of controlling some of nature's resources, what a vast difference it would make in the existing state of things! Then might the nation look forward to the millennium. But as things were—as long as it was deemed a virtue to spend enormous sums, even though those sums belonged in another man's treasure chest—the millennium was delayed. The nobility continued to despise any honest toil, discouraged trade, and considered the occupation of merchants below their consideration. Commerce was thus left to the few; the wealth of the nation became no greater; the masses remained poor; and the princes and peers of the country went on congratulating themselves that by their indolence and wasteful luxury they were "elevating their souls and lending dignity to their species."

Just as Voltaire never ceased to advocate the cause of humanity in his demands for good laws, just tribunals, and equitable quotas of taxes, so he continually argued for a more scientific and impartial system of property relationships. He saw that it was utterly useless for a great landlord to attempt to secure any lasting prosperity for himself while his vassals were crushed under the load of their misery. His prosperity depended upon theirs. Let him but permit his tenants to have their land at a reasonable tenure and endeavor to make them secure in their temporal blessings, and he would find the outcome beneficial to himself and more satisfactory to the peasants.¹⁹ Then the tenants would gladly spend their energies in cultivating the land, in improving, and enriching it. The spirit of property would double their strength, and they would consider it worth while to labor for themselves and their families, and would find it possible to protect themselves against an unfortunate future by laying up a little hoard of treasure terrestrial. But even more beneficial to the prince and landlords and peasants was that species of land, freed altogether from the payment of rent, and liable only to those general imposts levied by the state for its maintenance. This property it was, Voltaire said, which had contributed in a particular manner to the wealth of England and France and of the

¹⁹ *Ibid.*, Vol. VII, Article "Propriété," pp. 18-22.

free cities of Germany. It always aroused the enthusiasm and called for the best talent and toil of the individual owners, and encouraged thrift and economy in all.

But because sovereigns and ecclesiasts, nobles and peasants, had not realized the evils of these social institutions which had existed in France, and had been deaf to the dictates of reason, and had tolerated abuses of all sorts and degrees, the state had not been true to its mission. It had only been an indifferent success and, at times, it had done positive injury to its inhabitants. It had permitted the spirit of militarism to degrade the people and to destroy their resources. This spirit, this thirst for war, Voltaire considered a crime, a "retrograded movement of mankind." What voice, commissioned to teach virtue, has been raised against this crime, which is so great and universal, against this destructive rage which transforms into beasts of prey men who were born to live brothers; against those barbarous depredations and shocking cruelties which make the earth a scene of robbery and desolation, and convert flourishing and populous cities into horrid and gloomy tombs? The violations of treaties the most sacred and solemn, the grossness of those impostures which preceded the horrors of war, the impudence of those calamities which fill the declarations of contending parties, the infamy of those rapines which are capitally punished in private men, but extolled as acts of heroism in the leaders of nations; theft, robbery, sacking of cities, bankruptcies and ruin of thousands of wealthy merchants; their families wandering from place to place, and in vain begging alms at the gates of publicans enriched with their spoils—these are a few of the many crimes and calamities that are committed without the least remorse.²⁰ Upon all classes of the nation these dire evils had fallen, and against them Voltaire raised vehement protest. Reason was more powerful than force; enlightenment would secure more happiness and prosperity than the sword.

And now we are confronted with an apparent anomaly. Voltaire longed to see mankind prosperous; he desired burdens to be

²⁰ *Dialogues*, Vol. II. L'A, B, C. Article "Du Droit de la Guerre."

lightened. Yet, with all his faith in humanity, he never considered the people fit to govern themselves. He regretted that society, as it was organized, did not permit greater individual initiative and activity. He thought that possibly a time would come when the Third Estate would be admitted to a share in the administration. Then, as in England and in Switzerland, there would be more happiness and contentment. But that it would be desirable to overturn the monarchy and establish a democracy he did not admit for a moment. In Voltaire's estimation, a republic was founded, not on virtue, but on the ambition of every citizen to restrain the ambition of every other citizen. It was established on pride, which came into conflict with the pride of others; on desire for leadership and mastery which was not content to let other men be supreme in authority. In this spirit, according to Voltaire, a democracy made laws and preserved as much equality as possible between citizens.

Such a form of government might succeed moderately well in a small area, but when it was extended to a large territory its ineffectiveness became evident.²¹ Even in a comparatively small area, a democracy exhibited its inherent faults; for it was composed of human beings with human frailties, which had every opportunity to unfold themselves. Yet with all its limitations a popular government would never disgrace itself with the vices of tyranny and cruelty. And if republicans in mountainous regions had been wildly ferocious, Voltaire was ready to admit that it was not the fault of republicanism but of nature. Although discord might prevail, although institutions would never be perfect, although men would be selfish and unreasonable in a democracy, to its eternal honor, he said, "there will be no St. Bartholomews, no Irish massacres, no Sicilian Vespers, no Inquisition, no condemnation to the galleys for having taken water from the ocean without paying for it."²² Democracy thus received Voltaire's condemnation, and his praise as well. The radical vice of such a form of government was expressed, as he said, by the Turkish fable of the dragon with many heads and the

²¹ *Dictionnaire Philosophique*, Vol. VI, Article "Politique," pp. 457-462.

²² *Ibid.*, Vol. III, Article "Démocratie," p. 321.

dragon with many tails. The multitude of heads becomes injurious, and the multitude of tails begins to obey one single head, which wants to devour all.

It is clear, then, that Voltaire did not desire to revolutionize the government. He thoroughly believed in a monarchical state.²³ An example of the success of a monarchy, he had seen in England. There, according to him, the sovereign was all-powerful to do good but he was also restrained from committing evil. This was what Voltaire desired for France. Yet, true to his principles of reason, he considered a prince, who violated the laws of right and justice, who was indifferent to the vital interests of the nation, who permitted his subjects to be condemned mercilessly, or to be murdered by careless, fanatical tribunals, only a public robber, a high-bred assassin, dignified though he might be with the title of Royal Highness. He did not fail to realize that under a monarchical system of government the one personage about whom the social and political world revolved, for whom honors were created and treasures accumulated, whose life was of value infinitely higher than that of his subjects, was the sovereign.²⁴ But he thought that if this all-powerful individual was conscientious in his dealings with the children of men, if he accepted, along with his tremendous power, the responsibility for using it so as to promote the satisfaction of all the individuals dependent upon his will; if, in short, he was a philosopher, inspired and guided by reason, then the nation would enjoy greater prosperity than could possibly come under a democracy. For, with all his efforts to secure a better existence for his countrymen, with all his anxiety to rectify abuses and to annihilate privileges, Voltaire believed that the people were rarely able to govern themselves, that they were seldom worthy of the honor, and that the responsibility of a just government ought not to rest upon them, but upon a discreet and intelligent prince.

In essential things—in the right to a trial according to the strict letter of the law, in the right to the security of property, in the privilege of professing unmolested whatever religion they chose,

²³ Lecky, *French Revolution*, p. 13.

²⁴ *Dictionnaire Philosophique*, Vol. VI, pp. 460-462.

in short, in the desire for life, liberty, and the pursuit of happiness —men had equal rights, and rightfully demanded to have their claims respected by their fellows and by their prince. Although Voltaire confessed men were equal in these all-important things, he said that they were destined to take different parts, to fill different positions, in the political and social world. Equality at birth, equality as men, did not destroy their subordination to the sovereign and magistrates, or insure their equality as members of society, making them equally powerful in the state.²⁶ But, whatever the form of government, while its criterion of worth should be the equal protection its laws afforded to all ranks of men, its principal object should be, not to strive for numbers, but to render such as were under its sway as little miserable and unreasonable as possible. These ends Voltaire constantly held were most likely to be secured in a monarchical state.

Consistent with his theory of the sovereignty of the prince was the conception of the relation which ought to exist between the state and the church. It cannot be denied that the impelling motive in his attack on the church was hatred of the papacy as well as devotion to authority and reason; but the former was accentuated because he realized that the church had acquired its position in the state, utterly regardless of the principles of sovereign political authority and of enlightenment and reason. The church, he said, consisted not of the clergy alone, any more than the state consisted of magistrates alone. The church was the whole body of believers—prince, magistrates, soldiers, clergy and people. As the prince was supreme in the state, so ought he to be supreme in the church; and the church could enjoy privileges only as it enjoyed them from royal clemency and mercy. To insist that the papal authority overshadowed royal authority was absurd and ridiculous.²⁷ In unmistakable words, Voltaire insisted that the church should be subject to civil authority.

²⁶ *Ibid.*, Vol. IV, Sect. II, pp. 9-11.

²⁷ *Politique et Législation*. Vol. I, Article "La Voix du Sage et du Peuple." "Il ne doit pas y avoir deux puissances dans un état. La distinction entre puissance spirituelle et puissance temporelle est un reste de barbarie vandale; c'est comme si dans ma maison on reconnaissait deux maîtres; moi, qui suis le père de la famille,

It was natural, then, that he considered those who performed the functions of the church also a part of civil society—subjects of the sovereign under whom they exercised their ministry. According to him, priests were persons appointed by the authority of the state to direct the prayers of the members of the religious fold, and to superintend public worship generally.²⁷ "Their functions, their persons, their property, their pretensions, their manner of inculcating morality, teaching dogmas, celebrating ceremonies, the adjustment of spiritual penalties," in a word, all that relates to civil order—ought to be submitted to the authority of the prince and the inspection of the magistracy. With these reasonable limitations of their power priests, Voltaire believed, would occupy a position in the state similar to that of preceptors in a private family. They would have no authority over the master of the house.²⁸ Their spiritual calling would insure them no earthly dominion, even though their extreme desire to uplift the world made them eager to have it entirely under their sway. Their claim to happiness and appreciation in this world, and their expectation of reward in the sphere celestial, would depend on the diligence they had used in teaching men to forget their arrogance and conceit, to worship God with unstained hearts, to be just and diligent, tolerant and compassionate.²⁹

Since the vocation of the priest was his spiritual ministry, the only justifiable means of extending his authority and widening his influence was spiritual persuasion. He might instruct his parishioners in Biblical lore; he might exhort them or threaten them with punishment eternal, or gently persuade them with promise of a blessed hereafter; he might pray for them, or give them wholesome advice until priest and parishioners alike were weary and gray. But to use coercion and force submission was

et le précepteur de mes enfants, à qui je donne des gages. Je veux qu'on ait de très grands égards pour le précepteur de mes enfants; mais je ne veux point du tout qu'il ait la moindre autorité dans ma maison."

²⁷ *Dictionnaire Philosophique*, Vol. III, Sect. 1, Droit Canonique.

²⁸ *Politique et Législation*, Article "Le Cri des Nations." "Il n'y a qu'une puissance, celle du souverain: l'église conseille, exhorte, dirige; le gouvernement commande."

²⁹ *Dictionnaire Philosophique*, Vol. VI, Article "Prêtres," pp. 512-514.

repugnant "to the freedom of reason, to the nature of the soul, to the unalterable rights of conscience, to the essence of religion, to the clerical ministry, and to the just rights of the sovereign."³⁰

Voltaire was never ambiguous in this message to the people of his country. Over and over again he maintained that the state was the only supreme authority and ought to brook no interference from the church. The state had a right to the allegiance and service of every citizen superior to any assumed right of the church. A citizen's first and most important duty, therefore, was to play an honorable part in political activities. His birth had made him a subject of the state, and only the consent of those who presided over it could release him from his natural obligations to society.³¹ If he wished to withdraw from active participation in the service of the state to become a member of some monastic order, he ought to seek royal permission for his act, since his vow to God could only mean his worthlessness to society. Thus it devolved upon the sovereign to prescribe the rules for admission into these orders. He might fix an age limit for admittance, or forbid any one to take vows without the express consent of the local magistracy. Such regulations Voltaire considered very desirable, since the consecration to poverty so often secured a revenue of thousands of crowns, and the devotion to humility was rewarded by extensive domains. The convents themselves needed the constant supervision of the magistracy. If a thorough examination by the civil magistrates proved that they were worthy of the protection of society, then Voltaire said, let them be sanctioned by the supreme civil authority.³²

It was because Voltaire realized that the land of the state had fallen to those who had shown skill and strength enough to obtain possession of it, regardless of the rights of society, that he challenged the equity of their claims. It was because he was convinced that they had made ample use of the periods of ignorance, superstition and infatuation to strip ignorant and short-

³⁰ *Ibid.*, Vol. III, Sect. 1, "Droit Canonique," p. 470.

³¹ *Ibid.*, p. 480. "Chaque citoyen naît sujet de l'état et il n'a pas le droit de rompre des engagements naturels envers la société, sans l'aveu de ceux qui la gouvernent."

³² *Ibid.*

sighted men of their inheritances, and to trample the unfortunate under foot in order to fatten on their trivial hoardings, that he bade them tremble at the near arrival of the day of reason.³³

Radical, and even violent, as Voltaire was in his estimate of convents and clergy, and in his demand that their revenues should be made serviceable to the state, he did not desire to deprive them of the means of honorable subsistence.³⁴ He declared that whoever exercised a laborious function deserved a return from his fellow-citizens in a liberal support. He always felt a particular sympathy for the country curate who was obliged to dispute a sheaf of wheat with a parishioner, or to exact from him the tenth of his peas and beans, or in rain or hail or snow to spend his days and nights miserably in a round of parish visits, extending for miles about his abode. He scorned the wealthy abbot, who had once been a poor man at the head of others equally poor, but who now spent his days in "vicarious leisure" and luxury; and who might eat his partridges and pheasants, and drink his choice wines, and be merry at the prospect of a rise in an income which already supplied his needs above all he could ask or even think. The contrast with the insufficient income of the country curate made the disproportion seem too great. Would it not be more advantageous to the state, and to the clergy as well, and more conformable to reason if the state itself was made responsible for all salaries, for the clergy no less than for the magistrates and soldiers?³⁵ Such was Voltaire's view of the vexatious difficulties presented by a church swathed in luxury; such was his solution of the difficulties, if only the sovereign were a philosopher and his counsellors heedful of reason.

The ascendancy of the civil authority over the church, which Voltaire advocated so strongly, ought, he held, to be maintained in every particular. The principle of reason required that all the religious assemblies of the clergy should be regarded as legal only on the authorization of the sovereign or of the magistracy. Whatever passed within those assemblies—whether it was to

³³ *Ibid.*, Vol. I, Article "Abbé," pp. 38-39.

³⁴ *Ibid.*, Vol. III, Article "Curé de Campagne," pp. 275-278.

³⁵ *Ibid.*, Article "Droit," pp. 465-493.

revise the form of prayers, or to change ceremonies, or to establish holidays or to prescribe books of devotion—should not become valid and obligatory without civil consent and approbation.³⁶ In this way civil authority alone ought to be the guaranty of the position of the clergy in the state, and the dispenser of their material blessings; civil authority alone ought to convoke occasional religious assemblies and to direct their deliberations and give sanction to their decrees.

Although Voltaire thus considered that the civil authority should enjoy undisputed supremacy in the state, he recognized a limitation to its sway. No sovereign authority had the right to employ force to bring men to any religious view.³⁷ However great an evil it might be to have heretics in the country, it was a far more heinous crime, Voltaire asserted, to maintain orthodoxy by soldiers and executioners. Even if the Catholic religion was divine in its origin, it ought not to be established by hatred and anger, by banishment and confiscation of goods, by imprisonment, torture, and murder. Such persecution defeated its own end; it was successful only in making hypocrites and rebels. The whole law of persecution, he said, was as absurd as it was barbarous; it was even more savage than the law of tigers, for brutes only destroyed for the sake of food, while men foolishly butchered one another on account of a disputed sentence or paragraph. Again and again Voltaire insisted that every man should have the privilege of following the guidance of his own reason, so long as he did not disturb the peace and good order of the community.³⁸ No sect, he repeated, had ever produced any disturbances or changed the government of a country except when it was furnished with arms by despair. Therefore the best policy was always to show a toleration of sects, to imitate in this respect the wise conduct of Germany, England, and Holland. To persecute a sect, to murder innocent men and women because of trifling differences in the mode of expressing their insignificant thoughts, was to use the method of a monster; to tolerate them and unite them, and ally them to the state in common interest

³⁶ *Ibid.*, Sect. 1, Droit Canonique.

³⁷ *Ibid.*, Traité sur la Tolérance.

and in mutual service, was to use the method of a philosopher. Let all men, Voltaire urged, whether Jews, Turks, Protestants, or Catholics, find it advantageous not to mistrust, despise, and hate each other, but to join hands and unite hearts in loyal allegiance to and cordial support of a state which proves its worth and shows its wisdom by the toleration and welcome it extends to men of all faiths.

By dozens of lampoons, pamphlets, and letters, Voltaire persistently carried on his vigorous attack against the repressive, persecuting policy of the church and the system of abuses and privileges in the state. The terrible power of the Pope, he said, was worse than all other powers because it was established solely on ignorance and intolerance. The prince, likewise, had not exerted his power for the welfare of the people, whose misery and squalor and ignorance bore bitter witness to his neglect. Against every spiritual or political manifestation of intolerance, superstition, and injustice, Voltaire warred with incessant activity, for to him³⁸ reason and humanity were but a single word, and love of truth and passion for justice but one emotion. That the price of his unselfish struggle should have been antagonism and hatred from the church, and suspicion and persecution from the state was only natural. But hatred did not make him a less valiant soldier. The reward he sought for his service was not the trophies of affection and appreciation, much as he would have valued them; his reward for many years was only the consciousness that, in spite of opposition and discouragement, he had fought a good fight. With Heine, Voltaire might have said, "Lay on my coffin a sword; for I was a faithful soldier in the cause of humanity."

It was fortunate for mankind that Voltaire's life was more than four-score years long. It was fortunate for them that a man of such genius and brilliancy had pledged himself to the cause of reform. His talents and his achievements made him one of the foremost men in France and Europe and enabled him to interest

³⁸ *Ibid.*, Droit Canonique.

³⁹ Morley, *Biographical Critique*, p. 11.

many in his efforts. He was always the polished, gallant man of the world, and sovereigns were glad to do him honor.⁴⁰ Frederick of Prussia, Catherine of Russia, Joseph II of Austria, Gustavus III of Sweden, Christian VII of Denmark, Frederick of Hesse, and Stanislaus of Poland, alike admired him and endeavored to imitate the spirit of his philosophic mind. Through their efforts a new ideal of enlightenment and reason began to find expression in the administration and legislation of the countries over which they ruled.⁴¹ From the middle of the century to the outbreak of the Revolution their efforts bore increasing fruits. Religious intolerance was coming to be regarded as despicable; persecutions were less zealously undertaken; torture was sinking into disfavor; criminal codes were undergoing long needed reform; feudal burdens and lingering remnants of serfdom were gradually disappearing. In Italy, in Austria, in Denmark, in Poland, and in Prussia, it became fashionable as well as politic to recognize the universal principle of reason and to apply it in more adequate laws and regulations.

This was the result for which Voltaire had toiled so long and so faithfully, and for which he had opposed both priestly and royal authority, calling them to a reckoning before the bar of reason and humanity. He had accomplished much; he had hoped for much more. Many of his countrymen, nobles, and men of letters, bourgeoisie and peasants, did awake to nobler ideals and higher standards through the stimulus Voltaire gave them. But while his influence on the people of France during the old régime was far-reaching, his influence on the government was practically nil. It was disastrous for France that her sovereigns and legislators did not more fully appreciate the urgency of his appeal. While Voltaire lived, his ideas of reform were not accepted by those who had the power to reform the abuses which in a few years were to have their full retribution; at last, time brought the French Revolution. Then Voltairism triumphed for a space. The first phase of the Revolution was dedicated largely to his spirit. He would have approved of the measures of the Constituent

⁴⁰ Lecky, *England in the Nineteenth Century*, Vol. V, p. 316.

⁴¹ *The French Revolution*, pp. 21-24.

Assembly in favor of civil improvement and administrative reform. But the Revolution changed; it grew radical; it fell under the influence of Rousseau. His appeal to the masses increased the number of those who flocked around his standard and took up his battle-cry of destruction to the social order. The result was the anarchy and violence of the later stages of the Revolution, and the logical outcome was the Terror.

It is clear, then, that Voltaire and Rousseau represented two widely different theories of government. Unlike Rousseau, Voltaire did not attempt to build the state of the future on a Utopian basis. He always remained in intimate touch with reality and in contact with practical affairs. He invited a thorough criticism of the existing order; he desired a radical reform in both church and state. But he was always confident that the people needed the restraint of social institutions and the restrictions of a strong monarchical government. His influence, therefore, meant the strengthening of a monarchy grown just, generous, tolerant, and not the establishment of a democratic state. Voltaire thus made an appeal to reason; his influence was constructive, and it lives today in the spirit of constitutional criticism and reform. Rousseau made an appeal to sentiment; his influence was destructive, and has its outcome in modern sentimental democracy.

Voltaire lived long enough to feel well assured of the ultimate triumph of reason. He had entered a field where he could work efficiently for mankind. Although he realized that the establishment of the reign of reason might be very long deferred, "one day," he said, "it cannot be but that good men win their cause." With steadfast patience he performed his part, and the inspiration of his faith and courage ever strengthens those who, like him, are devoted to the development of mankind. His influence during his life and after his death was deep and pervasive. His "existence, and character, and career constituted in themselves a new and prodigious era." The peculiarities of his individual genius changed the mental and spiritual conformation of France and, in a less degree, that of the whole of the West, with as far-reaching and invisible effect as if the work had been wholly done, rather than merely aided, by the sweep of deep-lying collective forces. Vol-

tairism was one of the cardinal liberating forces of the growing race. It may stand as the name of the Renaissance of the eighteenth century.⁴²

Voltaire had waged a warfare against an appalling alliance of political, social, and religious vices. In their place he had endeavored to establish toleration, good will, and fraternity. The partial success of his work brought some sweetness into the bitterness of his last years. As he said, "*J'ai fait un peu de bien, c'est mon meilleur ouvrage.*" His indignation, his smile, his banter, had set the world thinking; the full acceptance of his message would have secured greater peace and concord for mankind. To Voltaire had been entrusted a mission, which only a man of his rare genius and perseverance could have fulfilled.⁴³ "To combat Pharisaism; to unmask impostures; to overthrow tyrannies, usurpations, prejudices, falsehoods, superstitions; to replace the false by the true; to attack a ferocious magistracy; to attack a sanguinary priesthood; to take a whip and drive money-changers from the sanctuary; to reclaim the heritage of the disinherited; to protect the weak, the poor, the suffering, the overwhelmed; to struggle for the persecuted and oppressed—that was the war of Jesus Christ." And who waged that war? It was Voltaire.

⁴² Morley, *Biographical Critique*, p. 5.

⁴³ Hugo, *Oration on Voltaire* (1878).

HISTORY OF THE MAJORITY PRINCIPLE

JOHN GILBERT HEINBERG

Brookings Graduate School of Economics and Government

Perhaps no convention of our day is more acceptable to both the political scientist and the man on the street than the employment of the simple-majority device to determine the will of a group. Even the ponderous German scholar Otto von Gierke is drawn to the facetious conclusion that it is only in the institution of matrimony that the majority principle cannot be used. Exceptions, of course, exist. Examples familiar to students of American government include the two-thirds and three-fourths majorities of the federal amending process, the two-thirds vote of the United States Senate in the approval of treaties, and like majorities in the overriding of presidential and gubernatorial vetoes. But these exceptions do not invalidate the commonly accepted "naturalness" of decisions according to simple majority. The theory has probably been expressed best by Grotius: "It is unnatural," he says, "that the majority should submit to the minority—hence the majority naturally counts as the whole, if no compacts or positive law prescribe a different form of procedure."

Although it now finds almost universal acceptance, the practice of reaching decisions by counting heads has not always prevailed, and even where employed its use has been limited and contingent. Speaking historically, the modern dogma of majority rule is a comparatively recent development, although it is probably an outgrowth of the various theories of majority rule of days gone. There were such theories, for example, as embodied in the convenient rule of law that the will of a corporation might be expressed by a majority of its members; another, a canon law theory, held that the majority of a body was more liable to hit upon the true and the good than was a minority, and to make doubly certain the majority was both counted and weighed; the

social compact theory postulated an original compact in which society was formed by unanimous consent, one of the conditions being that thereafter individuals were bound by the will of the majority; and the force theory was based upon the idea that the majority represented the greater might.

The term majority principle denotes a device employed by groups for reaching decisions. It operates in definitely organized groups whose members are considered equal for the purpose of voting, and where the opinion of the greater number is deemed expressive of the collective will. It is unfortunate that the development of the concept has received only scant and fragmentary treatment; for an understanding of its applications and characteristics in past times is essential to an appreciation of its present importance.

Before historical times in Greece, and among primitive peoples generally, except in rare and isolated cases, there is little evidence of formal or official action by corporate bodies. Primitive communities have little "government" in our understanding of the term. "All of the exigencies of normal social intercourse," says Lowie, are "covered by customary law, and the business of such government as exists is rather to exact obedience to traditional usage than to create new precedents."¹ In the absolute and despotic Oriental monarchies, and even elsewhere in communities where authority had not become so completely centralized, such new precedents as were created were in general the result of decisions reached by a single mind; for the only sovereignty was that of an individual. This should not, however, lead us to believe that the decisions of individuals who promulgated the laws or decrees were necessarily arbitrary, or based upon superficial or whimsical considerations. Evidence chosen at random refutes this idea. In the Book of Proverbs we find a recommendation for much counsel: "Where no counsel is, the people fall: but in the multitude of counsellors there is safety."² The Institutes of Manu required the king to appoint seven or eight ministers,

¹ Lowie, *Primitive Society*, pp. 358-359.

² Proverbs, II, 14. See Sir George Cornewall Lewis, *The Influence of Authority in Matters of Opinion*, (ed. of 1875), pp. 166-167, notes.

"whose ancestors were servants of kings; who are versed in the holy books; who are personally brave; who are skilled in the use of weapons; and whose lineage is noble."³ The king was to consult with these ministers on peace, on war, on his forces, revenues, the protection of his people, and on the means of bestowing aptly the wealth which he had acquired.⁴ He was required to consult them, first apart, then collectively, and to do what appeared to be most beneficial in public affairs.⁵ Thus, even where decisions were made by individuals, we have a rude prototype of the majority principle, in so far as it embodies the idea of deciding according to the weight of evidence; but it is obvious that we cannot have decisions according to a numerical majority until we begin to find bodies whose decrees have some degree of legality.

The crude methods of procedure and voting employed by the ancient Homeric assemblies, the early Teutonic assemblies,⁶ and the Spartan assembly lead to the conclusion that decisions were not in fact made by a numerical majority, though in theory this was supposed to be the case. Deliberations were much restricted, and voting was customarily by acclamations and murmurs.⁷ The theoretical equality of each person might be easily modified, if not destroyed altogether. Then, too, the presiding officer determined the verdict. This furnished another possibility for actually thwarting the desires of the numerical majority, and may have led to the peculiar procedure employed in the election of the Spartan gerontes. Here the "people assembled in the Apella, and the candidates for office went through the assembly in an order previously determined by lot. He at

³ *Institutes of Manu*, Chap. VII, 54.

⁴ *Ibid.*, Chap. VII, 56.

⁵ *Ibid.*

⁶ There was no legal obligation, in the Teutonic assemblies, to conform to the decision of a majority or to acknowledge it as one's own decision. He who stubbornly maintained his objection was not bound by their decision. See Gierke, "Über die Geschichte des Majoritätsprinzips," in Sir Paul Vinogradoff (ed.), *Essays in Legal History, delivered before the International Congress of Historical Studies* (London 1913), p. 315.

⁷ On the Homeric assemblies see C. Borgeaud, *Histoire du Plebiscite*, p. 7. On the Teutonic assemblies see Tacitus, *Germany*, Chap. XI (Trans. by N. S. Smith, 2nd ed.), p. 33. On the Spartan assemblies see Thucydides, I, 87.

whose passing the people raised the loudest cry was held to be elected. The loudness of the cry was judged by men shut up in a house near the Apella, from which they could hear the cry, but could not see the assembly."⁸ The question naturally arises as to the principle employed by these men in reaching their decision. We cannot assume that all presiding officers were as ingenious and honest as Sthenlaidas on the occasion described by Thucydides:

When Sthenlaidas had thus spoken, he himself, since he was an ephor, put the vote to the assembly of the Lacedaemonians. Now in their voting they usually decide by shout and not by ballot, but Sthenlaidas said that he could not distinguish which shout was the louder, and wishing to make the assembly more eager for war by a clear demonstration of their sentiment, he said: 'Whoever of you, Lacedaemonians, thinks that a treaty has been broken and the Athenians are doing wrong, let him rise and go to yonder spot, and whoever thinks otherwise, to the other side.' Then they rose and divided, and those who thought a treaty had been broken were found to be in a large majority.⁹

The five Spartan ephors decided by a majority vote.¹⁰ The members of the Peloponnesian League had an agreement to decide according to the majority principle. But a loop-hole existed in the provision that whatever the majority of the allies decreed should be binding, *unless there should be some hindrance on the part of the gods or heroes.*¹¹ This provision was taken advantage of on one occasion by the Corinthians.¹² The most advanced methods of voting, and those best calculated accurately to register the numerical vote, were employed by the Athenian ecclesia, which reached decisions by the numerical majority principle. All ordinary voting was carried on by a show of hands, an actual count being taken only when the vote was close.¹³

⁸ G. Gilbert, *Constitutional Antiquities of Sparta and Athens* (trans. by Brooks and Nicklin), p. 48.

⁹ Thucydides, I, 87.

¹⁰ Xenophon, *Hellenica*, II, IV, 29. Lewis, *Op. cit.*, Note B, p. 168. Gilbert, *Op. cit.*, p. 52.

¹¹ Thucydides, V, 30. Italics are not found in the original.

¹² *Ibid.*

¹³ Gilbert, *Op. cit.*, pp. 297, 304.

A second, but more unusual, form of voting was by ballot. This was employed in full assemblies, i.e., at the *ostra kismos*, in granting citizenship, and occasionally in other extraordinary cases. Two urns were placed, either for each tribe or for the whole ecclesia, the one for the ayes, and other for the noes. After the voting had taken place, the president announced the result.¹⁴ It is interesting to note that here, too, we get a rude semblance of the "quorum." In cases of ostracism it was necessary for 6,000 votes to be cast. If this condition was not met the vote was null and void.¹⁵

For the purpose of voting, the various popular assemblies of the Roman republic which at different periods exercised legislative authority gathered in divisions, all divisions voting at the same time. There seems to have been no provision regarding a quorum, and frequently only a small number of votes was cast. No one present, however, might refrain from voting. Each division had a "regator" who determined the order of voting within the division, and who decided upon the voter's qualifications in the event that they were questioned. Each man was asked his decision, a majority of the votes of the individual members determined the common vote of each curia or century, and a majority of the curiae or centuries determined the vote of the assembly. Mommsen says that the first man's vote was especially marked. The method of recording the votes followed no set custom: sometimes each vote was recorded on a tablet, at other times a "yes" or "no" was placed opposite each name. During the last century of the Republic, the written ballot was introduced, first for the election of magistrates, and then for the passage of laws, with certain exceptions. In the electoral procedure the names were written on boards and placed in different boxes.¹⁶

The Roman Senate reached its decisions by means of a majority vote, but the procedure was by no means simple. The question

¹⁴ Gilbert, *Op. cit.*, p. 297.

¹⁵ *Ibid.*, p. 307. Lewis says that the courts of justice, smaller councils, and administrative bodies, the Athenian senate, board of generals, and Spartan gerusia also decided by a majority vote. *Op. cit.*, p. 134.

¹⁶ T. Mommsen, *Römisches Staatsrecht* (2d. 1887-88), Vol. III, pp. 394-408.

was put by the presiding officer, who then called upon the individuals by name. The person first called upon could indicate his approval or make a statement relating to the question. Those called upon later could make statements or merely express agreement, but it was necessary for them to make some answer. A senator, once he had given his approval, could not discuss proposals made later by senators whose names succeeded his. He could, however, change his final vote. It was thus possible for a majority to have indicated its approval of a measure, only to have its decision rendered nugatory by proposals advanced later on in this preliminary proceeding by a senator who arose to speak in his turn. The presiding officer also had great powers. After the preliminary proceeding, he stated and put the question, counted the votes, and determined the majority. The usual method of voting was by changing seats. The presiding officer indicated with his hand: You who approve go here; you who think otherwise go there. There was no secret ballot during the Republic.¹⁷

By the fifth or sixth century of our era the advanced forms of voting were lost, and the *viva voce* vote had become the most common method. Discussion in large assemblies was impossible; so chosen orators made their appeals, and the people expressed their approval by shouts of commendation, or in the event that they were dissatisfied they murmured or cried down the speaker.¹⁸ The historian Wolfson believes that the revival of all forms of voting used in modern times was due to the activities of the towns of northern Italy.¹⁹ Just when these processes were resumed is doubtful, but all of them had attained full vigor by the end of the thirteenth century.²⁰ Wolfson goes on to show that the exercise of the franchise in the councils in the communes produced the greatest development of voting procedure. Government positions were vigorously contended for, the men of the twelfth

¹⁷ Mommsen, *op. cit.*, Vol. III, pt. 2, pp. 978-1002.

¹⁸ Arthur M. Wolfson, "The Ballot and Other Forms of Voting in the Italian Communes," in *American Historical Review*, Vol. V, No. 1, p. 3.

¹⁹ *Ibid.*, p. 1.

²⁰ *Ibid.*, p. 3.

and thirteenth centuries not being averse to violence and bloodshed when circumstances appeared to require them. "Even the majority," he says, "was only too often the result of the armed preponderance of a few men over the masses of the people who did not dare to oppose them."²¹ Refinements of procedure, such as the indirect election of magistrates, were introduced, but decisions by electors were not made according to the simple majority principle. "In Genoa," he observes, "the choice seems, as a rule, to have been a unanimous one, though not necessarily so; in Brescia and in Ivrea, a two-thirds vote was necessary to a choice; in Bologna, the same proportion, twenty-seven out of forty, or thirteen out of twenty was preserved; in the other cities, four-sevenths was the proportion. In all cases more than a mere majority was required to elect candidates to office."²² Wolfson notes further the similarity of papal and communal elections, but believes that there is greater probability that each owed much to the other than that one was the outgrowth of the other.²³ In 1179, Alexander III issued a decree requiring a two-thirds vote of the cardinals in the election of the Pope, shutting out participation by the lower clergy and the people. This procedure has been generally followed.

In the practices of the church, however, one cannot find a consistent method of arriving at decisions. In certain important instances the principle of unanimity was required. The decrees of the Synod of Elvira (305 A.D.) begin with the words, "*Episcopi universi dixerunt.*"²⁴ Hefele suggests that the reason the decision reached at the Council of Nicaea (325 A.D.) was not erected into a canon was due to the fact that it was not unanimous. "Perhaps," he says, "the synod desired to conciliate those who were not ready immediately to abandon the customs of the *Quarto decimans.*"²⁵ Canon Four of the Council of Nicaea provides that bishops shall be chosen by *all* the bishops of the province, and

²¹ *Ibid.*, p. 6.

²² *Ibid.*, pp. 14-15. See Wolfson's citation of sources.

²³ *Ibid.*, pp. 13-14.

²⁴ Hefele, *Histoire des Conciles* (ed. 1869-76), Vol. 1, p. 131.

²⁵ *Ibid.*, p. 320.

if it is impossible for *all* to attend the consecration their written permission must be secured. The Third Canon of the Seventh Oecumenical Synod (Council of Nicaea, 787 A.D.) reaffirmed this method of choosing bishops: "Every election of a bishop, of a priest, or of deacons carried on by a temporal prince is nullified, in accordance with the ancient rule (Apostol. can. 310) as ordained by the Fourth Canon of Nicaea."²⁸

(In the older canon law, as in German law, according to Gierke, the majority principle was conceived of as a means of arriving at the necessary unanimity by imposing the duty of assent upon the minority. This gave way to a juridical fiction whereby what was willed by the majority was considered as willed by all. The canonists deduced that the *major pars* represents the juridical personage in the same manner as the totality, whilst the *minor pars* remains merely an aggregate of individuals. The canonists justify this fiction on the ground that the many will probably hit upon the true and good more easily than will the few.

Then we have introduced the factor of *sanitas*, whereby the majority is made to depend upon both the quality and the quantity of votes. This is called the doctrine of the *major et sanior pars*. In the perfected theory then, the *pars major*, in its legal sense, consists of both *pars numerosior* and *pars sanior*, i.e., the more numerous and more prudent part. Thus it might be possible for a small minority, containing a preponderance of the *pars sanior* to prevail over a numerical majority; but on the whole the opinion was that the qualitative and quantitative preponderance must coincide—that the greater number has a legal supposition of also being the *pars sanior*.

"Hence," says Gierke, "in so far as *sanitas* is not officially tested by reason of a necessarily higher approbation, the supposition must be annulled by a formal proof to the contrary; to accomplish this the minority must protest against the decision

²⁸ Hefele, *Op. cit.*, Vol. IV, pp. 369-370. Italics are not found in the original. After 1215, in the election of bishops, only a simple majority of the cathedral chapter was required. But here we have the idea of a concurrence of the *major* and *sanior* pars. See Jellinek, *The Rights of Minorities* (trans. by A. M. Baty and T. Baty, London, 1912), p. 7 and note on p. 35.

of the majority and prove before the "Superior" that this protest is based on fact. With such a protest even a single individual can accomplish the annulment of a decision arrived at by all the rest. The "Superior" decides as to whether the minority had actually proved that the majority was not the *sanior* portion. Since the decision does not depend merely on result, but also on the motive, and since not only contra-legal but also purposeless decision can be contested, it is easily understood that a broad field is opened to the judgment of Superiors. More permanent rules, which in part depart from the regulations for other corporative acts, were formulated only for elections; but even they also have, as canonists frequently emphasize, always the sole character of instructions for finally deciding *arbitrium boni judicis*. It was legally prescribed that at the *electio per scrutinium* the so-called *collatio* must precede the announcement of the result of the decision. In the *collatio* it was determined in what proportion *numerus*, *auctoritas*, *meritum* and *zelus* were represented on each side. Herein should be considered: 1. As to *auctoritas* all the deciding factors in the external attributes of the individual voters; 2. As to *meritum* all the advantages and merits of the voters as well as of the candidates; 3. As to *zelus* all circumstances allowing an insight into purely spiritual and objective electoral motives or the possible more earthly, sensual, and personal ones. How to deduce the preponderance of the one or other side from these factors was the subject of many a controversy. Here, too, the opinion that in order to constitute a majority the preponderance in number and *sanitas* must in general coincide was victorious. Yet this rule was modified here by the axiom, that a very marked preponderance in number, set by most as a two-thirds majority, would in itself suffice. On the other hand, until the fourteenth century the opinion prevailed that minority elections could be stamped as majority elections in opposition to a moderate majority by means of a marked preponderance of *auctoritas*, *meritum*, and *zelus*, while later canonists, even in the cases of elections, simply required the condition of a greater number. In the case of no side having a majority, they supposed no election to have taken place at all."²⁷

²⁷ *Das Deutsche Genossenschaftsrecht*, Vol. III, pp. 323-330.

In institutions other than the church the general tendency of the later part of the Middle Ages was toward the progressive acceptance of the majority principle, with the principle of unanimity maintaining a stubborn resistance. The Golden Bull of Charles IV (1356) provided for the election of German kings according to the majority principle. In regal elections, in the assemblies of rural municipalities, and even more slowly in federative unions, such as the German Hanse and the Swiss confederation, the majority principle began to be introduced. But in the political assemblies the principle of unanimity was raised in opposition to it, and in the rural districts the decisions were generally unanimous. In Germany, majority decisions came to be valid in trade meetings, courts, rural parishes, cities, guilds, and it was declared a general rule in the law books. Gierke points out, however, that "this by no means meant a break with the ancient conceptions, but rather was introduced into the old frame as a juridical means of obtaining a unanimous decision of an assembly, for the principle of majority rule receives this interpretation: 'The minority must follow the majority.' (*Minor pars sequatur majorem.*) By this and similar interpretations of the use of the principle, the same sense is expressed, i.e., that the minority must withdraw its objection and agree with the majority, in order that a unanimous common will may be formed: a *sententia per approbationem et collaudationem communem, quae volga dicitur, ab omnibus et singulis stabilita.*"²⁸

Ecclesiastical hierachial organization contained "Superiors" who easily circumvented the numerical majority principle. Thus in 1229, when the monks of Ely were divided in the election of a bishop—the majority choosing Prior John, the minority, the Chancellor, John Langton—the chapter's seal was affixed to neither. The king took it upon himself to confirm the minority's candidate; and the whole matter was taken to Rome and compromised.²⁹

²⁸ Gierke, *Über die Geschichte des Majoritätsprincips*, pp. 315-320.

²⁹ Thomas P. Baty, *The History of Majority Rule*, in *Quarterly Review*, Jan., 1912, p. 9.

Likewise with the corporations. English law provided that a corporation's will should be made known by affixing its common seal. In the old days this merely involved a scramble for possession of the seal, says Baty. "If Brother Walter, the sacrist of St. Edmunds, gets hold of the seal . . . and therewith seals a bond for forty marks to Benedict the Jew of Norwich, there is nothing for an enraged abbot to do but to depose Brother Walter." And normally the abbot kept the seal, and could bind the abbey, and was in fact 'the majority.' Thus the Statute of Carlisle (1307) provided for the seal to be laid up in the custody of five monks, and under the private seal of the abbot. It was stated that in 1449 the court held this statute void for unreasonableness—for how could the seal ever be used if it were always locked in a box? But it is curious to note that the old monument chest of the City of Carlisle has five locks, with five keys, and is to be seen to this day in the civic museum there."³⁰

It was not until 1430 that the majority principle became decisive in elections to the British House of Commons,³¹ and not until the second half of the sixteenth century do we find the numerical majority principle firmly established as a rule to be followed by the House itself. Redlich indeed holds that the practice was regularly followed by the *Magnum Concilium* and transferred to the younger House of Commons;³² but the evidence for this view appears inconclusive.

The first mention of the majority principle is contained in the executive clause of Magna Carta (c. 61). This confers on a committee of twenty-five barons wide powers for compelling the king to observe the provisions of the charter, and proceeds: "If perchance those twenty-five are present and disagree about anything, or if some of them after being summoned are unwilling or unable to be present, that which the majority of those present ordain or command shall be held as fixed and established, exactly as if the

³⁰ Baty, *Op. cit.*, pp. 7-8, citing Pollock and Maitland, *History of English Law*, Vol. I, p. 491, quoting Jocelyn de Brakelonda,

³¹ *Op. cit.*, p. 9.

³² Joseph Redlich, *The Procedure of the House of Commons*, (trans. by A. Steinthal, London, 1908), Vol. II, pp. 263-264.

whole twenty-five had concurred in this."³³ This article was, however, omitted from all reissues and confirmations of the Charter.³⁴ McKechnie maintains that the circumstances were in every way exceptional, and that the principle of decision by a numerical majority "then and for long afterwards . . . was used only as a temporary expedient to be applied timidly and tentatively."³⁵ To support his contention, Redlich cites a stipulation of the Provisions of Oxford (1258) according to which the decision was to be reached "*par la greinure partie*"; but, as Baty has pointed out, such cases are far from establishing a general rule.³⁶

The document *Leges Henrici*, dating from about 1118, tells us that in early English tribunals the opinion of a majority of the judges prevailed, but this is qualified by an additional provision which defines the 'majority' as one of rank, repute, and sound judgment.³⁷ Maitland has shown that several conditions led to the requirement for unanimity in a jury. It appears that the verdict was regarded as something more than the opinion of twelve men. It was looked upon as involving arbitral and communal elements; that is to say, both litigants were supposed to have agreed to be bound by a verdict of the community, and the verdict was necessarily a single and unified one.³⁸ It thus appears evident that the idea that the majority can be taken as representative of an entirety was absent from the intellectual atmosphere of the time. Juries were to determine the truth, and objective truth must be subjectively convincing. If the majority principle could not be employed to determine an avowed community will, then certainly we cannot expect groups of individuals who acknowledge no broad mutuality of interests to make use of it. The English Parliament of the Middle Ages did not represent the English people as a whole, but some hundreds of articulate corporate bodies and powerful lords. The probable etymology of

³³ W. S. McKechnie, *The New Democracy and the Constitution*, pp. 155-156. Quoted from McKechnie, *Magna Charta*, p. 548.

³⁴ *Ibid.*, p. 158.

³⁵ *Ibid.*, pp. 155-157.

³⁶ Redlich, *Op. cit.*, p. 263; Baty, *Op. cit.*, p. 14.

³⁷ Baty, *Op. cit.*, p. 8.

³⁸ Pollock and Maitland, *History of English Law*, Vol. II, pp. 623-624.

'Commons' is 'communities' or corporate bodies.³⁹ There was no general corporate unity whose collective will a majority might be assumed to express.

It has been pointed out by several writers that divisions within the House in early times were infrequent. Even as late as 1791, Bentham tells us that on ninety-nine motions out of a hundred there was no division.⁴⁰ Hence the voting might well be carried on according to the principle of unanimity. As long as the House continued to be organized on the basis of individual and corporate interests, we may expect to find the principle of unanimity resorted to; for unless the decision was unanimous all would not be bound by it. We know, for instance, that until late in the Middle Ages the English nobles who dissented from granting a tax, or who had not been present when the decision was reached, often refused to pay it.⁴¹ In 1221, Peter des Roches, bishop of Winchester, repudiated a liability for his due proportion of a scutage levy granted by the Common Council on the ground that he had dissented from the grant, and his plea was accepted as valid.⁴² Says McKechnie: "It would . . . appear that at the beginning of the thirteenth century, the right of majorities was by no means admitted in questions of money grants, while it was only tentatively applied to other issues."⁴³ Baty concludes that "neither from the records of the House of Commons nor from those of the House of Lords can we be sure that the early Tudor parliaments habitually regarded any numerical majority, short of an overwhelming one, as decisive. "We see," he says, "occasional majority decisions, but no evidence of a settled practice."⁴⁴

³⁹ Sabine and Shepard, Introduction to Krabbe, *The Modern Idea of the State*, p. XVII.

⁴⁰ Jeremy Bentham, *Works*, Vol. II, p. 349.

⁴¹ G. Simmel, *Soziologie*, p. 187.

⁴² McKechnie, *Op. cit.*, p. 157. A. F. Pollard, *The Evolution of Parliament*, p. 143, says: "We have no knowledge of the important process by which this extreme view of the rights of 'liberty and property' was surrendered, and the rights of an 'estate' to bind its individual members by a majority vote was established."

⁴³ McKechnie, *Op. cit.*, p. 157.

⁴⁴ Baty, *Op. cit.*, p. 19.

Sir Thomas Smith, who wrote between 1552 and 1556, says that at that time the decisions of the House were reached according to the majority principle.⁴⁶ How long the practice had been followed is a matter of conjecture. Baty thinks that the autocracy of Henry VIII may have had something to do with its development,⁴⁷ but Pollard does not seem to share his opinion. He points out that there was no great social consciousness in Parliament at that time. "The classes, from which its members were drawn," he says, "were much more bent on the pursuit of their own private fortunes than on participation in public affairs."⁴⁸ It is suggested that the majority principle did not receive adoption until demands began to be made for parliamentary action, and until its powers became extensive enough to warrant that action.⁴⁸

It is not necessary to go into the history of the majority principle after its establishment in the House of Commons. British practice has been generally copied by the Western world; if not copied directly, it appears evident that the influences which brought the principle into operation there tended to produce the same result elsewhere.

Some light may be thrown on the idea that the majority principle is the product of circumstances by a brief consideration of the principle of unanimity. The most conspicuous example is that of the *liberum veto* of Poland. According to Konopczynski, the concurrence of eight circumstances was responsible for its establishment:

1. The persons participating in the diets and dietines were not equals. That is to say, the diets and dietines were the meeting places of both the greater and lesser nobles, and the great lords considered the small *szlachta* by no means on a par with them-

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*, pp. 26-27.

⁴⁸ A. F. Pollard, *Henry VIII*, pp. 258-265.

⁴⁹ The device of the quorum, according to Redlich, was introduced on the 5th day of January, 1640-1. "It was ordered 'That Mr. Speaker is not to go to his chair till there be at least forty members in the House' (House of Commons Journals, Vol. II, p. 68). From that time the rule has been kept intact, and it has never been discussed again." Redlich, *Op. cit.*, Vol. II, pp. 75-76.

selves. The *liberum veto* came to be, in their hands, an instrument to be used against the majority.

2. Rules for the conduct of deliberations within the assemblies were insufficient and tardily developed.

3. There was no pressure from outside during the sixteenth century. Poland enjoyed tranquillity on her western border, and the eastern states still respected her power.

4. Internal conflicts were unimportant. The only crisis was a religious one, in which, for a time, it seemed as though the Protestant majority would accomplish a *coup*; but the crisis passed without this taking place.

5. It was possible for the malcontents to emigrate *en masse* into other provinces of the republic, into Volhynia, into Podolia, and then into the Ukraine. Later, when emigration was no longer possible, the principle had become firmly rooted.

6. While the majority might impose its king on the country, or its deputy on an electoral constituency, since the opposition rarely dared to choose rival kings or deputies, it could not impose its will in levying a direct tax or in calling out a reserve force. The ease with which the diet's earlier decisions could be rendered nugatory is exhibited by what actually took place in Poland under Sigismund the First (1507-48). The individual dietines to whom the diet's decisions were referred for ratification rejected taxes one after another, as well as the new military organization, and the government had to yield to this opposition.

7. The feeble separate executive power offered no support to the majority and did not guarantee the execution of its decisions, contrary to the practice in England and France. In these countries, the royal power everywhere and on all occasions gave stability to the deliberative body and obliged it to disregard the principle of unanimity.

8. Finally, there was the imperative mandate. "According to a rather widespread opinion," says Konopczynski, "this obstacle alone would have been able to change the course of the parliamentary machine and create the *liberum veto*. The general diet was formed by the meeting of delegations from the dietines in a single body. It would be expected that the individualistic

tendencies of the land-owners would become weakened within the province, and finally disappear entirely in the plenary assembly of the estates, but no such thing happened. Far from breaking down the individual strength of the dietines, the provincial assemblies shielded them against the authority of the entire nation. Individuals, covered by the imperative mandate, began to exercise their vetoes against the general agreement of the remainder of the assembly, even in cases which were not regulated in advance by the imperative mandate. By the end of the Jagellonian dynasty there had been imposed a series of precedents, after which the Polish parliamentary procedure was not able to emerge from its condition of stagnation and proceed in the direction of a majority régime, save at the expense of a violent revolution."⁴⁹

Although the principle of unanimity has had widespread use,⁵⁰ it has little validity or reality *per se*. Here, as in the case of the majority principle, the concurrence of a number of circumstances is usually responsible for its employment. For instance, as Konopczynski noted, the *liberum veto* was used largely to thwart the decisions of the Polish diet.

The foregoing review of the use of the majority principle seems to indicate that its several components, operating much as do the tumblers of a lock, are found to be working smoothly in the Athenian ecclesia, and not again until we reach the sixteenth century English House of Commons.

Under certain conditions it would seem that the majority concept is subject to modification, and even to antagonistic influences. The deliberations of a political body are constantly influenced by its more powerful and competent members. Deci-

⁴⁹ W. Konopczynski, "Une Antithèse du Principe Majoritaire en Droit Polonais," in Sir Paul Vinogradoff (ed.), *Essays in Legal History, delivered before the International Congress of Historical Studies* (London 1918), pp. 336-397. The *liberum veto* he says, "donnait à chaque député le droit de rompre la diète et à chaque gentilhomme celui de rompre la dietine." *Op. cit.*, p. 336.

⁵⁰ Early German law, in its most primitive state, employed the principle of unanimity. Gierke, *Über die Geschichte des Majoritätsprincips*, p. 314. For other instances of its employment see: Lewis, *Op. cit.*, pp. 141-142, note p. 142; Simmel, *Op. cit.*, pp. 187-188. Cf. also the American Articles of Confederation of 1781-89.

sions are often simply the determination of an individual or of a faction duly ratified. While it may not be supposed that a group will more certainly arrive at the truth than an individual, and while majority decisions are often erroneous or partisan, it would seem that there are several characteristics of group action that tend to further sound judgments. The practice of referring technical matters to select committees, opportunity for discussion and debate whereby minorities may be heard and may convince their opponents, together with the likelihood that members are selected by reason of especial competence or interest—all these tend to promote sound decisions.

The majority principle may not properly be regarded as aboriginal or absolute. Rather, its content varies in the following elements: method of voting, power of presiding officers, electoral procedure, and philosophical justifications for its use. However, it would seem that certain factors appear with noteworthy frequency, namely: (1) conditions permitting an accurate counting of votes; (2) the presence of common interest or of group solidarity; (3) an inclination to discuss, concede, and compromise; and (4) conviction of the need of concerted action. These factors are not advanced as the result of an exhaustive analysis, nor are they indispensable for all occasions. It is merely suggested that they are usually present.

The majority principle is simply a convenient rule of law, and contains no inherent ethical validity. A theory may serve as the basis for procedure in deliberative assemblies, and without doubt a uniform method of reaching decisions is necessary, if business is to be transacted in an orderly and expeditious manner; but the achievement of wise decisions ultimately depends upon full utilization of the best judgment of the individuals who compose groups. These may be assumed equal for the purpose of voting, but at least in some cases special attributes, such as ability and technical knowledge, must be allowed to modify a rigid use of the majority principle.

LEGISLATIVE NOTES AND REVIEWS

EDITED BY VICTOR J. WEST

Reorganization of the Administrative Branch of the Minnesota Government.¹ Students of state government know that the administrative branch has gone through an interesting development during the last century and a half. The first state constitutions gave the governor small powers. The state legislatures had powers almost equal to the English parliament. In most cases the legislatures elected the governor, performed many administrative functions through their own committees, and appointed officers to act as the governor's colleagues. These officers were finally given a constitutional basis and made elective by the voters, but not responsible to the governor. The rapidly developing functions of the state have called into existence a multitude of administrative officers, boards, commissioners, and departments with little unity, centralization, and fixed responsibility. This unsatisfactory condition created a widespread interest in the reorganization of the administrative branch of the state governments. In this movement the state of Minnesota was a pioneer.

The campaign for reorganization in Minnesota covered a period of more than ten years. The movement was inaugurated by Governor A. O. Eberhardt, who emphasized the matter in at least two messages to the legislature, but whose plea fell upon deaf ears. Finally, in sheer desperation, without authorization or appropriation by the legislature, he asked thirty of Minnesota's leading citizens to investigate the subject, make a report, and suggest a plan for improving the illogical, haphazard administrative service in the state. This committee was known as the Efficiency and Economy Commission, and deserves to rank with a constitutional convention. It was representative of all parties, professions, and business, and served without compensation and paid its own expenses.

¹ This article is based on the following: Preliminary and Final Reports of the Efficiency and Economy Commission, 1915; Report of the Interim Commission, 1925; an article by the writer in 10 Minnesota Law Review, 40; Addresses by Mr. F. B. Olson and Professor M. B. Lambie before the November meeting of the Minnesota League of Women Voters, St. Paul; Minnesota Session Laws, 1925, chap. 426.

After many meetings and a rather exhaustive investigation, the Commission made two reports and suggested a plan for reorganization. It found the chief faults of the then existing administration in lack of unity and responsibility. It found the system incoherent, with a multiplicity of disconnected or unrelated boards and bureaus over which neither the governor, the legislature, nor the people had any effective control, the result being duplication of work and unnecessary employees. It found the existing system to consist of (1) numerous unrelated branches; (2) diversity in form; (3) predominance of the board system; (4) numerous branches, including semi-public associations that received aid from the state, most of them standing entirely aloof from one another. The board system in various forms predominated. In passing, it may be said that in administration the board system results in delay and inefficiency. It distributes responsibility. Boards are good for sub-legislative and quasi-judicial work. They are useful to give advice, but not suited to administrative tasks. The Commission concerned itself, not with the powers and duties of the government, but with the method of performing its powers and duties. It did not look for graft, but for defects in the administrative system. The plan proposed did not call for any changes in the constitution.

The fundamental features of the Commission's plan consisted of (1) a reorganization of the executive service; (2) the introduction of the merit system in the civil service; (3) the budget system. The plan proposed the abolition of the executive board system and the substitution of a relatively small number of executive heads of departments, known as directors, to be appointed by the governor with the consent of the senate, and to hold office during the pleasure of the governor. These directors were to constitute a kind of governor's cabinet, similar to the cabinet of the president of the United States. They were expected to be laymen and not technical experts. The bureau chiefs and various subordinates under them were expected to be trained experts protected by the merit system. In addition to the single-member director and the bureau chief, the Commission recommended that each department should have a board, not for the purpose of performing executive functions, but for advisory, sub-legislative, and quasi-judicial functions. The aim was to combine permanent expert service with popular control, the governor being the real head of the administration.

The report and plan of the Commission were transmitted to the legislature at the 1915 session, but nothing was achieved except the passage of a denatured budget which has proved wholly ineffective. The reasons

usually assigned for the defeat of the plan are: (1) the Commission was extra-legal, *i.e.*, in no way provided or supported by the legislature, being wholly gratuitous on the part of Governor Eberhardt, whose efforts aroused resentment on the part of the legislature; (3) the lobbying activities of many officers whose positions might be affected by any change. However, the report yielded some good results. Some five years later the state department of education was reorganized and placed in the hands of a state commissioner of education elected by a newly created state board of education, thus taking education out of partisan politics. Furthermore, the report of the Commission was given wide publicity throughout the Union and undoubtedly influenced some neighboring states to achieve reorganization, notably Illinois, under the able leadership of former Governor F. O. Lowden. Minnesota's own reorganization was postponed for ten years.

The recommendations of the Efficiency and Economy Commission to the legislature of 1915 were discussed in the state from time to time during this decade. But the impulse for a second effort came as a result of the recent financial depression among the farmers and the consequent demand for lower taxes, reduced indebtedness, and the diminished cost of government. The following figures for amounts appropriated by the Minnesota legislature through a series of years will help to emphasize the mounting costs of state governments:

1900.....	\$6,000,000	1917.....	\$21,000,000
1910.....	11,000,000	1919.....	32,000,000
1913.....	19,000,000	1921.....	36,000,000
1915.....	18,000,000	1923.....	40,000,000

The situation had become acute. Several circumstances coöperated for bringing the subject of reorganization forward a second time. The federal government had inaugurated an effective budget, and the executive departments under the leadership of President Coolidge and Secretary Mellon were making large savings in operating expenses. In addition, there was a serious agitation in Congress for tax reduction. The present governor of Minnesota, Hon. Theodore Christianson, made a state-wide campaign in 1924 with the reorganization of the administrative branch and reduction of taxation and indebtedness as the chief issues. The governor was elected by a handsome majority. Another contributing factor was the fact that the League of Women Voters took an active part through a citizens' committee in inducing the House of Representatives at the session of 1923 to pass a resolution authorizing an interim committee to study the reorganization plans in operation in

other states and report a plan for the consideration of the 1925 legislature. The League outlined its program in a resolution passed at its annual meeting in October, 1924, favoring the passage of four bills as follows: for (1) the general consolidation of administrative agencies; (2) an executive budget; (3) salary standardization; (4) administration of public personnel. The League followed these proposals by personal, persistent, and highly intelligent lobbying in the 1925 session of the legislature.

The Senate failed to pass a resolution providing for the appointment of an interim committee to act with the House committee; but the committee authorized by the House made some trips to other states for the purpose of study and investigation and found that Illinois and Ohio are accomplishing good results through a cabinet form of government, while Pennsylvania and Massachusetts have brought about control over fiscal affairs through the creation of a department closely connected with the governor's office in which are grouped the fiscal activities of the state. This agency is called the department of administration and combines the functions of preparing the budget, checking departmental expenditures through a system of pre-audits, buying supplies and equipment, standardizing employment and salaries, and classifying positions in the civil service.

The substance of the interim committee's report to the legislature may be summarized as follows: (1) that the 92 boards, bureaus, and departments be consolidated into a few major departments; (2) that the governor be given power to limit and control the expenditures of these departments through a department of administration and finance control, in which should be centered the budget-making, auditing, purchasing, and personnel selecting functions of the state; (3) the abolition of all departments and agencies that are obsolete and the repeal of all laws creating functions which the state should no longer exercise. Mr. Spindler, a member of the committee, filed a minority report favoring the retention of boards and commissions that had rendered good service. In other words, he was not in favor of a very thoroughgoing reorganization and argued that no substantial economies would be effected unless large governmental functions were eliminated.

As the Senate in a last rush of business in the closing days of the 1923 session did not provide for an interim committee to act jointly with the house committee, it was expected that a reorganization bill would enjoy a more friendly reception in the House than in the Senate. This proved to be true. In fact the bill was almost wrecked in the Senate by

two amendments, one by a Senator De Wold and the other by Senator Rockne. The Rockne amendment prevailed and a vital blow was delivered at the bill by exempting the state board of control and the railroad and warehouse commission from control of the department of administration and finance. After a fierce struggle in the House, the bill substantially as proposed by the majority of the House interim committee, passed by a large majority. The bill went to the Senate, which refused to pass it, and the two bills were sent to a conference committee of the two houses. The Senate receded from its original plan in most respects, and with a hazy compromise on the relation of the board of control to the department of administration and finance, the bill finally passed both houses and was signed by the governor. Thus was realized legal reorganization after a ten-year fight.

The new law, which went into effect July 1, 1925, reorganizes the administrative departments of the state by centralizing administrative and financial control in the governor; creates, in addition to the executive council (which consists of five ex-officio members) thirteen departments of administration, namely—administration and finance, drainage and waters, dairy and food, agriculture, conservation, commerce, health, education, highways, labor and industry, public institutions, taxation, and rural credits. The state live-stock and sanitary board is left intact by the act. With the exception of the department of conservation and the department of commerce, only a few changes are made in the direction of consolidating administrative departments and boards of the state. The other new departments in most cases are to perform the functions previously exercised by a commission or board with a similar name, only minor functions being transferred from one department to another. There is practically no elimination of any established functions. The law authorizes the governor to combine departments without consolidating them through the device of appointing the head of any department to the head of another department without extra compensation. Governor Christianson has announced his intention to make use of this provision.

The outstanding achievement in the act is the administrative and financial control of the governor acting through a department of administration and finance. This department, or commission, consists of the comptroller, commissioner of the budget, and the commissioner of purchases, all of whom are appointed by the governor with the consent of the senate, each serving six years one retiring every two years but removable at any time by the governor, each with a salary of five

thousand dollars a year. The commission designates one of its members as a director of personnel whose duty is to supervise all matters relating to the employees of the state.

The general powers of the commission are comprehensive. The responsibility for attending to the actual work devolves upon the commission as a whole acting through its special officers, namely, the comptroller, the commissioner of the budget, the commissioner of purchases, and the director of personnel. (1) The commission supervises and controls the accounts and expenditures of the several departments and agencies of the state, which involves installing uniform systems of accounting and authorizing the expenditures of appropriations by the departments in accordance with advance quarterly estimates or a pre-audit of the needs of such departments; (2) investigates and surveys any phase of the organization, administration, and management of the various departments to secure better organization and greater efficiency; (3) supervises the making of all contracts that incur financial obligations; (4) supervises purchases, rentals, furnishing of all property, equipment, supplies and all telephone, telegraph, and lighting service, with certain exceptions, reserved to the state board of control, but subject to the general supervision of the commission; (5) supervises the construction and direction of all state buildings; (6) determines the classes, grades, and titles of employees and fixes standardized salaries except for the chief deputies appointed by elective officers and the employees of the board of control or institutions under the board of control, and through the director of personnel establishes a recruiting system based on merit; (7) through the budget commissioner prepares a budget for all receipts and expenditures of the state government not later than December first in the year preceding the convening of the legislature, which budget is made up from the estimates returned by the heads of departments on prescribed forms and must be a complete statement to be included in the governor's recommendations to the legislature with regard to the amounts to be appropriated and the means for raising the money to finance the same.

There are a few outstanding features of the powers of the department of administration and finance that call for comment. With the repeal of the 1915 law, there has been substituted a real executive budget, which, if properly made, will enable a layman to envisage the activities of the government from all points of view, including the different sources of income as well as the various expenditures. The income side of the budget, which has been sadly neglected in the past, will undoubtedly

set forth fully the facts about taxes, fees, licenses, collecting agencies and interest receipts. In the making of the budget the commissioner of the budget will need the cube of Solomon's wisdom to know whether he is checking poor departmental policy or is intruding unwisely on good policy. There is a danger of allowing an excessive zeal for economy to impair real efficiency by interfering with departmental policy through a lack of a proper perspective for necessary social values.

The quarterly pre-audit is a new and unique system in auditing. In the past the work of the auditor has consisted in seeing whether the departments have expended the appropriation for legal purposes. There has been no checking of expenditures for unnecessary purposes and no scaling down of too large amounts proposed to be expended. The effect has been for legislatures to appropriate liberally and for departments to expend with a lavish hand, often overreaching appropriations, which has necessitated deficiency appropriations at the next session of the legislature. This vicious system can now be stopped by making departments justify their proposed expenditure by having to run the gauntlet of the pre-audit. This will make them keep within the appropriation, abolish deficiency appropriations, and ought to establish a system of unexpended balances.

The merit system in selecting the civil servants is unique. The duty of classification, fixing salary scales, and controlling all the factors of employment, such as recruiting, morale, and promotion, are devolved upon the commission, acting through the director of personnel. The commission is at one and the same time the budget authority and the civil service department. This will obviate the excuses for friction between two different agencies such as prevail in the federal government and in some states and cities. These three features, the budget-making, the pre-audit, and the control of the civil service, vested in one commission with the governor as the final authority, can make or break this new reform in the administration of the Minnesota government.

The inception and final passing of the law owe much to two extra-legal agencies; namely, the Efficiency and Economy Commission of 1915 and the work of the Minnesota League of Women Voters. The commission of 1915 did pioneer work and led the vanguard in formulating basic principles which were enacted by other states, and the success in these states reacted on Minnesota and came back as bread cast upon the waters. Furthermore, all unbiased observers will acknowledge that the best political work done by women in Minnesota since the adoption of

the Nineteenth Amendment has been their constructive efforts in behalf of the reorganization of Minnesota's administrative system.

Governor Christianson gave careful consideration to selecting the officers to be charged with inaugurating the new law, which went into effect July 1, 1925. The new régime was only six months old when this account was written. The new officers are doing the initial work quietly and with little publicity. Surveys of departments are being made and new plans formulated. Occasionally an announcement appears that certain savings are being made, but it will take time to show results. The public is anxious to see the first published reports. The new law has already been tested before the state supreme court and upheld.*

The law is not as thoroughgoing as the plan suggested by either the Efficiency and Economy Commission of 1915 or the report of the interim commission of 1925, but a good start has been made. Minnesota, having put its hand to the plow, is not likely to turn backward. The present, or an amended and improved, plan is practically assured for the administration of the Minnesota state government.

J. S. YOUNG.

University of Minnesota.

New York State Reorganization. The voters of New York State at the November elections passed the administrative consolidation and short ballot amendment by a good majority.

The problem of reorganization and the short ballot has been before the state since 1910, when Governor Charles E. Hughes recommended administrative reorganization and consolidation, which he said would "tend to promote efficiency in public office by increasing the effectiveness of the voter and by diminishing the opportunities of the political manipulators who take advantage of the multiplicity of elective officers to perfect their schemes at public expense." He also expressed his belief in the centralization of power in the governor, who should appoint a cabinet of administrative heads. No legislative action was taken at that time, but two years later a department of efficiency and economy was created which was concerned mainly with financial methods and budgetary procedure. In 1914 an investigation of the government and administration was begun in preparation for the constitutional convention of the next year. Two reports were published—"Government

* *State Ex rel Thomas Yapp et al v. Roy Chase, state auditor et al.* (Advance sheets, Minnesota Supreme Court N 425½, 1925).

of the State of New York; a Survey of Its Organization and Functions," and "New York State, Constitution and Government, an Appraisal." These two volumes are a searching survey and analysis of state government, and both were used in drafting the new constitution.

The surveys at that time showed that the administration consisted of one hundred and sixty-nine agencies, boards, commissions, officers, etc., representing an almost completely disorganized system with no centralized control or responsibility to the one nominal head, the governor. Numerous conflicts and overlapping of jurisdiction were pointed out. There were found to be sixteen separate and distinct methods of appointment, varying from appointment by the governor alone to appointment by the judiciary. At the same time, there were seven different methods of removal. The state was also found to lack any method of financial responsibility, with the result that the expense of government was far too high.

When the constitutional convention met, a plan for reorganization was laid before the committee on the governor and other state officers, and finally reported to the convention. This was incorporated in the constitution, with some modification, and provided for seventeen departments: law, accounts, finance, treasury, taxation, state, public works, health, agriculture, charities and correction, banking, insurance, labor and industry, education, public utilities, conservation, and civil service. Administrative responsibility was centered in the governor. Ten departments had heads appointed by him, two had elective constitutional officers, four departments were headed by commissions appointed by the governor and one department—education—was under the control of the regents elected by the legislature. The elective state officers were reduced to four—governor, lieutenant-governor, attorney general, and comptroller, similar to the amendment of 1925.

The constitution was defeated at the polls in November, 1915, as a result of the cumulative opposition to the document, although administrative consolidation and the short ballot were generally well received.

In 1918, Alfred E. Smith, who had been minority leader of the constitutional convention and an advocate of consolidation, was elected governor. He appointed the New York reconstruction commission which reported in 1919 on *Retrenchment and Reorganization in State Government*. This survey found one hundred and eighty-seven agencies and recommended consolidation into eighteen departments, an executive budget, and a four-year term for the governor and comptroller, the only elective officers. Ten departments were to be under single heads, two

were to be in charge of elective officers, and six were to be under commissions. When the 1920 legislature met, Governor Smith urged action on the report, and three bills were passed, following in general the plan of the reconstruction commission, and filed with the secretary of state. The election of a Republican governor in 1920, as well as a Republican legislature proved the death knell of the proposals, and their passage by a second legislature was impossible. Governor Miller expressed his preference for piece-meal change rather than a complete reorganization. The tax assessment and collection agencies of the state were consolidated under a state tax commission consisting of three members appointed by the governor for terms of six years. A department of labor was created, as well as a board of estimate and control for budget purposes.

The second election of Governor Smith, in 1922, brought to the fore the problem of reorganization, as the Democratic platform favored the ideas outlined by the Reconstruction Commission of 1919. In 1923, the department of public works was reorganized to include the bureaus of canals, highways, and public buildings, under the superintendent of public works appointed by the governor, and in the same year the legislature passed the amendment for administrative consolidation. The Democratic platform of 1924 again declared for consolidation, and the re-election of Governor Smith made it a possibility. A Republican legislature accepted the proposed amendment in 1925, and it was ready for the action of the voters.

The amendment provides for twenty departments: executive, audit and control, taxation and finance, law, state, public works, architecture, conservation, agriculture and markets, labor, education, health, mental hygiene, charities, correction, public service, banking, insurance, civil service, military and naval affairs. The legislature is given the power to assign all the civil administrative and executive functions to the departments, and no new department may be created by it.

The comptroller will be the head of the department of audit and control, and the attorney-general the head of the department of law. The regents, chosen by the legislature, are to be the head of the department of education, and the head of the department of agriculture and markets is to be appointed in a manner presented by the legislature. All others are to be appointed by the governor, with the advice and consent of the senate.

Provision is made for the short ballot, in that certain at present elective officers—secretary of state, treasurer, and state engineer and

surveyor—will be removed from the ballot. The governor, lieutenant governor, attorney-general, and comptroller will continue to be elective.

The amendment was passed as a result of the personal popularity and appeal made by Governor Smith in a state-wide speaking campaign, the editorials of papers of both parties favoring the plan, and a state-wide educational program on the merits of the short ballot and consolidation. Many rural papers opposed, using the well-worn arguments of Jacksonian democracy. But the majorities of New York and other cities of the state carried the amendment over the opposition of the upstate rural areas.

An unofficial commission has been named by the majority leaders of the legislature to frame legislation to carry out the terms of the amendment. Hon. Charles E. Hughes, who as governor of New York began the movement for reorganization, has been designated chairman, and the commission, a non-partisan body, has begun the work of framing legislation to be presented at the 1926 session.

F. C. CRAWFORD.

Syracuse University.

CONSTITUTIONAL LAW IN 1924-1925

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF
THE UNITED STATES IN THE OCTOBER TERM, 1924

ROBERT E. CUSHMAN

Cornell University

A. QUESTIONS OF NATIONAL POWER

I. REGULATION OF COMMERCE

The decisions arising under the commerce clause of the Constitution during the 1924 term of the Supreme Court did not involve any striking extension of national authority in that field. There was no case approaching in significance the Recapture Clause Case¹ decided in the previous term. However, the reinforcement of a familiar principle through a striking application of it, or the lucid and pungent expression of an old doctrine, lends some significance to several cases which otherwise have no far-reaching importance.

In the case of *Brooks v. United States*² the court sustained the constitutionality of the National Motor Vehicle Theft Act of 1919.³ The act subjected to heavy penalties any one who transported or caused to be transported in interstate or foreign commerce any motor vehicle, knowing it to have been stolen, and any one who, with the same guilty knowledge, "shall receive, conceal, store, barter, sell, or dispose of any motor vehicle, moving as, or which is a part of, or which constitutes interstate or foreign commerce." It is certainly no surprise to learn from the opinion of Chief Justice Taft that the power to regulate commerce which is broad enough to enable Congress to bar from interstate transportation lottery tickets, diseased cattle, adulterated food, prize-fight films, and the like, and to penalize the interstate transportation of women for immoral purposes, is a power which can likewise be used to punish those who abuse the privileges of interstate and foreign

¹ *Dayton-Goose Creek R. Co. v. United States*, 263 U. S. 456. See comment in this *Review*, vol. 19, p. 51.

² 267 U. S. 432.

³ Act of Oct. 29, 1919, 41 Stat. at L. 324.

commerce by using them in the furtherance of larceny or the disposal of stolen goods. In the words of the Chief Justice, "Congress can certainly regulate interstate commerce to the extent of forbidding and punishing the use of such commerce as an agency to promote immorality, dishonesty, or the spread of any evil or harm to the people of other states from the state of origin. In doing this it is merely exercising the police power, for the benefit of the public, within the field of interstate commerce." The court distinguishes this act from the first child labor law on the ground that in the interstate transportation of stolen vehicles the movement of the goods across a state line is an integral part of the illegal transaction and frequently a necessary aid to its consummation, whereas *Hammer v. Dagenhart*⁴ proceeded upon the theory that there was no essential relation between child labor and the interstate shipment of goods made in factories where children labored. The decision in the Brooks case does not seem to depend upon any peculiar characteristic of motor vehicles or their transportation across state lines, but is broad enough to support congressional punishment of the interstate shipment with guilty knowledge of any stolen property.

In a brief opinion by Justice Holmes in the case of *Avent v. United States*⁵ the court upheld the power given to the Interstate Commerce Commission by Title IV of the Transportation Act of 1920⁶ to make reasonable rules establishing preferences or priorities in the movement of traffic in order to meet emergencies which might arise in traffic conditions. In July, 1922, the commission had made a rule applicable to the territory east of the Mississippi River providing that cars should be supplied for the movement of coal according to a certain order of purposes for the use of such coal. The plaintiff in error was convicted of having fraudulently induced railroads to supply him with coal supposedly to make gas, when in reality he intended to use it to make cement, gas manufacture being a preferred purpose under the commission's order. The statute and order were held not to violate due process of law, since the authority conferred extends only to emergencies and must be exercised reasonably and in the interest of the public. The court did not consider the allegation that the system of priorities operated to create a preference of ports in violation of Art. I, Section 9, of the Constitution of the United States,⁷ inasmuch as such a preference,

⁴ 247 U. S. 251.

⁵ 266 U. S. 127.

⁶ Act of Feb. 28, 1920, 41 Stat. at L. 456.

⁷ The clause reads: "No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another"

even if it existed, would not affect the rights of the plaintiff in error.

The operation of the Chicago Drainage Canal continues to give rise to interesting intergovernmental controversies.⁸ The case of Sanitary District v. United States⁹ arose out of a bill in equity brought by the Attorney General of the United States to enjoin the Sanitary District of Chicago from diverting more than 250,000 cubic feet of water per minute from Lake Michigan, that being the maximum amount authorized by the Secretary of War. It was alleged that the withdrawal of a much greater amount, from 400,000 to 600,000 cubic feet per minute, has lowered and will continue to lower the level of the water in Lakes Michigan, Huron, Erie, and Ontario, with all connecting waterways and all ports and harbors on them, so as to obstruct the navigability of such waters. The defense set up by the sanitary district emphasized the paramount necessity to the City of Chicago of adequate drainage facilities and the larger flow of water, cited various early statutes, state and federal, purporting to authorize the construction and operation of the canal, and finally, to quote Justice Holmes who writes the opinion of the court, "it takes the bull by the horns and denies the right of the United States to determine the amount of water that should flow through the channel, or the manner of the flow." The fact that the injunction prayed for was granted is perhaps less significant than the broad grounds upon which it was granted and the interesting implications regarding the scope of federal authority contained in the opinion of the court. Said Justice Holmes:

"This is not a controversy between equals. The United States is asserting its sovereign power to regulate commerce and to control the navigable waters within its jurisdiction. It has a standing in this suit not only to remove obstruction to interstate and foreign commerce,—the main ground, which we will deal with last,—but also to carry out treaty obligations to a foreign power bordering upon some of the lakes concerned, and, it may be, also on the footing of an ultimate sovereign interest in the lakes. The Attorney General, by virtue of his office, may bring this proceeding, and no statute is necessary to authorize the suit."

This paramount authority of the national government is superior to "that of the states to provide for the welfare or necessities of their inhabitants." And even if the state had been granted permission by the national government to take more water than the amount authorized

⁸ See the earlier important interstate controversy brought before the Supreme Court in Missouri v. Illinois, 200 U. S. 496, decided in 1906.

⁹ 266 U. S. 405.

by the war department, which the court does not admit, that permission would be revocable at discretion should federal interests demand it. While the power of the federal courts to afford injunctive relief against obstructions of interstate commerce, in the absence of statutory authority, was established in the Debs case,¹⁰ it is believed that the court has never clearly announced the existence of a similar power to prevent by injunction interference with national treaty obligations. Certainly the doctrine stated by Justice Holmes upon this point is most interesting to students both of constitutional and of international law.

In *United States v. Village of Hubbard*¹¹ the doctrine of the Shreveport Case¹² was applied to prevent discrimination by interurban electric railroads against interstate commerce, even though such roads were not engaged in the general freight business but confined themselves to passenger and express traffic. The court found no evidence of an intention on the part of Congress to exclude electrically operated lines from the jurisdiction of the Interstate Commerce Commission. The decision is in harmony with previous findings of the court,¹³ as well as with the desires of Congress as evidenced by certain provisions of the Transportation Act of 1920 which include electric interurban lines within the range of federal control.¹⁴

II. NATIONAL TAXATION

In 1920 the Supreme Court held in the case of *Evans v. Gore*¹⁵ that a federal judge could not be required by the provisions of a statute enacted after he assumed office to pay a federal income tax upon his judicial salary. Such a tax was declared to amount to a diminution of his compensation within the meaning of Art. III, Sec. I, of the Constitution of the United States. That decision and the reasons upon which it was supported have been ably criticized in the pages of this REVIEW and elsewhere.¹⁶ The court now holds, in the case of *Miles v. Graham*,¹⁷

¹⁰ 158 U. S. 564.

¹¹ 266 U. S. 474.

¹² *Houston, E. & W. T. R. Co. v. United States*, 234 U. S. 342.

¹³ In *Spokane and Inland R. Co. v. Campbell*, 241 U. S. 497, the Federal Employers' Liability Act, applicable to "every common carrier by railroad engaging in commerce between states," was held to apply to electric interurban lines.

¹⁴ *Newark v. Central R. Co. of N. J.*, 267 U. S. 877, holds that congressional power over foreign and interstate extends to the authorization of a railroad bridge with draws over a navigable bay lying wholly within the boundaries of a state.

¹⁵ 253 U. S. 245.

¹⁶ See Professor Corwin's comment on the case in the REVIEW, vol. 14, p. 641.

¹⁷ 268 U. S. 501.

Justice Brandeis dissenting, that this immunity from federal income taxation extends to federal judicial salaries, even though the taxing statute was in force when the judge assumed office. In other words, the salaries of federal judges cannot be reached at all by taxation. While, as was emphasized in the comments on the earlier case, it is hard to see how any possible impairment of judicial independence could result from subjecting the salaries of federal judges to the same income tax levies which are paid by other people, the present decision does have the advantage of treating all federal judges alike instead of limiting the immunity from taxation to those lucky enough to have been appointed to office before the tax was levied.

The Harrison Narcotic Drug Act of 1914, as later amended in 1919,¹⁸ imposes special taxes upon those authorized by the act to manufacture, sell, or dispense narcotic drugs, sets up a rigorous system of restrictions under which such drugs may be sold or dispensed, and imposes heavy penalties upon persons selling or dispensing them in any other way. While no one would be naive enough to assume that the real purpose of this law was to raise revenue, the Supreme Court in the Doremus case,¹⁹ in a five-to-four decision, upheld the conviction of a physician who had supplied a drug addict with large quantities of narcotics in violation of the rules established, on the ground that the police regulations set up by the act were reasonably necessary to the efficient collection of the tax. In the case of *Linder v. United States*²⁰ a physician was indicted under the act for having prescribed in the ordinary course of his professional practice four doses of narcotic drugs to an addict to be self-administered, the prescription being made without the written application which the law required. The court unanimously held that the statute cannot constitutionally be construed to forbid such an act. The court must presume that the object of the act is to secure revenue. Any police regulation set up by its clauses must be reasonably designed to promote the efficient collection of such revenue. The dispensing of drugs by a physician, acting in good faith and according to fair medical standards, does not imperil the orderly collection of revenue from the sale of drugs and may not, therefore, be prohibited by Congress.²¹

¹⁸ Act of Dec. 17, 1914, 38 Stat. at L. 785; Act of Feb. 24, 1919, Chap. 18, 40 Stat. at L. 1057, 1130.

¹⁹ 249 U. S. 86.

²⁰ 268 U. S. 5.

²¹ It is held in *Edwards v. Cuba R. Co.*, 268 U. S. 628, that subsidies of lands, physical property, and money paid by the government of Cuba for the construction of roads on the island, in consideration of which the roads were to reduce certain rates, are not income of the roads within the meaning of the Sixteenth Amendment.

III. THE EIGHTEENTH AMENDMENT

That the power of Congress to enforce the Eighteenth Amendment extends to the regulation of the manufacture and distribution of completely denatured alcohol, totally unfit for beverage purposes, is established in the case of *Selzman v. United States*.²² Chief Justice Taft declares: "The ignorance of some, the craving and hardihood of others, and the fraud and cupidity of still others, often tend to defeat" the object of the denaturing process, and accordingly "it helps the main purpose of the Amendment, therefore, to hedge about the making and disposition of the denatured article every reasonable precaution and penalty to prevent the proper industrial use of it from being perverted to drinking it."

IV. EXECUTIVE POWER—PRESIDENTIAL PARDON FOR CONTEMPT

A very significant case is that of *Ex parte Grossman*,²³ which sustains the power of the president to pardon a person guilty of a criminal contempt of a United States court. Grossman was adjudged guilty of contempt of the United States district court for having sold liquor to be drunk on his premises after an injunction forbidding such sale had been issued against him by the court under the provisions of the Volstead Act. He was sentenced to a year's imprisonment and the payment of a fine. The president granted him a pardon which commuted his sentence to the payment of the fine alone. The superintendent of the prison to which Grossman had been committed declined to release him, alleging the lack of power in the president to issue the pardon, and the case came to the Supreme Court on application for a writ of habeas corpus to secure Grossman's release:

It was argued against the validity of the president's action that the power of pardon which he enjoys extends only to "offenses against the United States"²⁴ which should be construed to include only offenses which are definitely created by statute and are triable by jury, and also that to extend the power of pardon to contempts of court "would be to violate the fundamental principle of the Constitution in the division of powers between the legislative, executive, and judicial branches, and

²² 268 U. S. 466.

²³ 267 U. S. 87.

²⁴ The constitutional provision for the pardoning power of the President is in the following words: "and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." Art. II, Sec. 2., U. S. Const.

to take away from the federal courts their independence and the essential means of protecting their dignity and authority." The Supreme Court held unanimously that the pardon was properly issued. In a very able opinion Chief Justice Taft points out that the framers of the Constitution used the term pardon in its accepted common law sense, that the common law recognized the authority of the king to pardon for criminal contempts, and that the power of the president was intended to be as broad as the king's prerogative in the matter of pardons. He also argues that the phrase "offenses against the United States" as stating the subject of the president's power to pardon was merely intended to distinguish between offenses against the federal government and those against the states, the latter of which were, of course, beyond the reach of federal executive clemency. The argument that the power was intended to apply only to statutory crimes is met by pointing out that many of the framers of the Constitution, as well as most of the early federal judges, assumed that the federal courts had common law criminal jurisdiction, and that the power of pardon must obviously have been intended to extend to such common law offenses against the federal government. That the exercise of such power is neither novel nor revolutionary is indicated by the fact that the records of the department of justice disclose twenty-seven instances in which it has been used. The court is obviously not impressed by the argument that the power to pardon for contempts violates the doctrine of separation of powers and impairs the independence of the judiciary. There is nothing sacred or immutable about the separation of powers, as is evidenced by the many instances in the federal constitution in which it has been ignored. The judiciary is in no danger from the exercise of this power. It is no more serious an interference with the independence of the courts than is the power to pardon for ordinary crimes. The remedy for an abuse of the power in either case lies in the power of impeachment. Finally, it is suggested, "may it not be fairly said that in order to avoid possible mistake, undue prejudice or needless severity, the chance of pardon should exist at least as much in favor of a person convicted by a judge without a jury as in favor of one convicted in a jury trial."

It should be noted that the decision in this case recognizes the power to pardon only for criminal contempts. The power does not extend to civil contempts. "For civil contempts, the punishment is remedial and for the benefit of the complainant, and a pardon cannot stop it. For criminal contempts, the sentence is punitive in the public interest to vindicate the authority of the court and to deter other like derelictions."

in the enforcement of the National Prohibition Act. The facts of the case are of importance. Prohibition agents in Detroit, acting incognito, interviewed Carroll, who agreed to sell them whisky. For reasons which do not appear, the whisky was not delivered. Later Carroll and a friend travelled toward the Canadian border, but the agents lost trace of their movements. Some two weeks later the agents, while patrolling the highway leading from the Canadian border, unexpectedly recognized Carroll and his friend driving a car toward Detroit. The car was stopped, the two men arrested, and the car searched, disclosing liquor hidden therein. The liquor, held for later confiscation, was used as evidence in the prosecution, which resulted in the conviction of Carroll. A well-reasoned opinion written by Chief Justice Taft holds that Carroll's rights under the Fourth Amendment, and under the enforcement provisions of the Volstead Act, were not impaired. This opinion may be thus summarized: (1) The Prohibition Act requires a search warrant in order to search a private dwelling, but permits the search and seizure without such warrant of vehicles which there is reasonable or probable cause to believe are being used for the unlawful transportation of liquor. This latter procedure does not violate the Fourth Amendment. A study of early cases and statutes shows that there has always been recognized a "necessary difference between a search of a store, dwelling-house, or other structure in respect of which a proper official warrant readily may be obtained, and a search of a ship, motor-boat, wagon or automobile for contraband goods, where it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought." (2) The defendant relies upon a common law rule that a person may be arrested without warrant upon suspicion, upon reasonable cause, for having committed a felony, but arrest may be made without warrant for a misdemeanor only if the offense is committed in the presence of the officer. Carroll's offense (his first) under the statute is a misdemeanor. But this distinction between a felony and misdemeanor, while important at the time this rule was established, has become a technical and more or less arbitrary one now and need not be enforced here to prevent the efficient administration of the law. Furthermore, the contention is untenable that the offense is not committed in the presence of the officer unless the presence of the liquor can be detected by the senses; but the officer may act upon "convincing information that he may have previously received" that the automobile he sees contains contraband liquor. (3) In any event the legality of the seizure does not depend upon the legality of

the arrest under the above rules of common law, but is an independent process dependent upon the reasonable cause which the officers have for believing that the car in question contains liquor in violation of the law. (4) Finally, upon the facts as above set forth there was probable cause to believe that the law was being violated. The fact that the officers were not looking for Carroll when he appeared is irrelevant. The knowledge they had regarding him was sufficient to meet the test of probable cause previously defined by the court in these words: "If the facts and circumstances before the officer are such as to warrant a man of prudence and caution in believing that the offence has been committed."

In a long and vigorous dissenting opinion, concurred in by Mr. Justice Sutherland, Mr. Justice McReynolds argues with some heat that Carroll's arrest was in violation of the common law rules set forth above which there is no evidence Congress intended to modify, that the seizure was unlawful since it followed an unlawful arrest, and that there was not probable cause to warrant the officers in making the arrest or the seizure. The argument is built up on rules and distinctions somewhat technical in nature and seems much less convincing than the majority opinion. The answer to Justice McReynolds' rhetorical question, "Has it come about that merely because a man once agreed to deliver whisky, but did not, he may be arrested whenever thereafter he ventures to drive an automobile on the road to Detroit," is that it certainly has, and that most of us are not sensitive enough to feel that such a result violates the requirements either of justice or of common sense. The result of the case so far as "probable cause" justifying search and seizure is concerned seems aptly summarized by Dean J. P. Hall in stating that "it seems likely that a common reputation in the community of being a 'bootlegger' would justify prohibition agents in stopping and searching automobiles driven by persons thus suspected by their neighbors."²⁹ While abuses will undoubtedly occur in individual cases under the operation of the rules laid down in this case, injured persons are not without means of redress, and it is submitted that the court's decision is a sensible one if the prohibition law is to be enforced, and does not involve any essential injustice.³⁰

²⁹ See his note on this case in 20 Ill. Law Rev. 162.

³⁰ The court throws further light upon the meaning of "probable cause" justifying search and seizure in the cases of Steele v. United States, 267 U. S. 498, and Dumbra v. United States, 268 U. S. 435.

The case of *McCarthy v. Arndstein*,³¹ dealing with the latest vicissitudes of a well-known "financier," holds that the constitutional right of exemption from self-incrimination extends to all actions, whether civil or criminal, including the case of a bankrupt being examined for the discovery of assets, in which the answers might subject to criminal responsibility the one who gives them. A distinction is drawn between the requirement that a bankrupt surrender his books and papers even though they may contain incriminating evidence, and an attempt to compel him to give oral testimony, the difference being that the books and papers are properly regarded as part of the estate which he must relinquish. If the rule as here enforced works injustice to the bankrupt's creditors it is within the power of Congress to adjust that difficulty by dipping the bankrupt in the well-known "immunity bath."³²

The one or two cases which arose under the due process clause of the Fifth Amendment merit only brief comment. In *National Paper and Type Co. v. Bowers*³³ the plaintiff corporation alleged denial of due process by virtue of the fact that it was required to pay an income tax upon its net profits derived from the business of exporting goods, while foreign corporations doing the same kind of business in the United States were exempt from the tax. The court held the alleged discrimination justifiable because foreign corporations are liable to taxation at the hands of their own governments, because their exemption from taxation may be part of a legitimate governmental policy to increase foreign trade, and because foreign corporations do not receive from this government the forms of governmental protection of their rights enjoyed by domestic companies. Foreign corporations, therefore, are taxed only on the income earned within the United States, while domestic corporations may be taxed upon their incomes from all sources.³⁴

In *Yee Hem v. United States*³⁵ a conviction for the crime of concealing opium after importation with guilty knowledge that it had been unlawfully imported was sustained against the objection that due process

³¹ 266 U. S. 34.

³² The familiar rule laid down in the case of *United States v. Evans*, 213 U. S. 297, that no writ of error may be allowed the government in a criminal case where the verdict is for the accused, is held in *United States v. Weissman*, 266 U. S. 377, to apply in a case in which the trial judge had directed a general verdict of not guilty because the indictment was defective.

³³ 266 U. S. 373.

³⁴ For supplementary opinion upon the same point overruling petition for rehearing see *Barclay & Co. v. Edwards*, 267 U. S. 442.

³⁵ 268 U. S. 178.

was denied by the provision of the statute creating a presumption of unlawful possession from the bare fact of possession. The law allowed the presumption to be rebutted, and the court found that there was a reasonable relation between the thing presumed and the fact from which it was presumed. The fact that under such circumstances the defendant must rebut the presumption does not violate the clause guaranteeing immunity from self-incrimination, since there is no legal compulsion resting upon him to take the stand in his own defense.³⁶

VI. JUDICIAL POWER—JURY TRIAL FOR CRIMINAL CONTEMPTS—MISCELLANEOUS

A decision of even greater practical significance than that in the Grossman case was rendered by a unanimous court in *Michaelson v. United States*,³⁷ upholding the so-called "jury trial provision" of the Clayton Act.³⁸ Persons violating the prohibitions of the act may be proceeded against either by injunction or by indictment. Those guilty of violation of an injunction so issued may be punished for contempt of court, but are specifically given the right of jury trial upon demand. This right to jury trial is definitely withheld in the case of contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice. Michaelson and others had been enjoined from conspiring to interfere with interstate commerce by picketing and by the use of force and violence, had violated the injunction, had been cited for contempt of court, and had demanded a jury trial. This demand was denied, and they were tried and sentenced without a jury, the lower court holding that the jury trial provision of the Clayton Act was unconstitutional as an interference with an inherent power of the courts. The opinion of the Supreme Court reversing this decision is written by Justice Sutherland. He points out that while the power to punish for contempt is inherent in all courts since it is essential to the administration of justice, it has long been recognized that this power, so far as the lower federal courts are concerned, is subject to congressional control. This was held in the early case of *Ex parte Robinson*.³⁹ What the precise limits of such control are has never been definitively

³⁶ The case of *Danzer & Co. v. Gulf & Ship Island R. Co.*, 268 U. S. 633, sets up the barrier of due process of law against the attempted revival of claims against the carrier already barred by the Interstate Commerce Act.

³⁷ 266 U. S. 42.

³⁸ Act of Oct. 15, 1914, 38 Stat. at L. 738.

³⁹ 19 Wallace 505.

established, although it has been recognized that the power itself cannot be abrogated nor rendered inoperative. The provision for a jury trial in the types of contempts specified in the act does not amount to substantial interference with the court's power. It is not applicable to direct contempts which imperil the dignity of the court or obstruct justice, nor does it apply in cases of failure or refusal to comply affirmatively with a decree. It applies only in cases of indirect criminal contempts which are also crimes. Here the presumption of innocence obtains, and the same protections ought to surround the accused as in an ordinary criminal prosecution. And, finally, citing the Transactions of the Royal Historical Society, the court finds that such contempts are so essentially of the nature of crimes "that it seems to be proved that, in the early law, they were punished only by the usual criminal procedure, and that, at least in England, it seems that they still may be and preferably are, tried in that way." Thus the sanction of the common law tradition is added to the more practical considerations supporting the jury trial procedure in such cases.

It is perhaps not entirely irrelevant to point out the possible soothing influence of the Grossman and Michaelson decisions upon a public opinion, even a somewhat conservative public opinion, which has been watching with increasing concern the rapid expansion of "government by injunction." Necessary as the injunctive process and summary punishments for contempt of court may be, it is cause for congratulation that the Supreme Court has been able to sustain on constitutional grounds such mitigations of the essentially rigorous and sometimes arbitrary nature of these acts of judicial power as may arise in the normal exercise of executive clemency or from the legislative provision for the more deliberate and satisfactory procedure of jury trial.

It was held in *Morse v. United States*⁴⁰ that no constitutional right of an accused person is invaded by his arrest under authority of a federal court while he is passing through a state on his way to attend a trial of an indictment against him in another federal court, in this instance a court of the District of Columbia. There is no denial here of due process of law. If any one was aggrieved by the fact that the United States marshal in New York snatched Morse away from the agents of the District of Columbia in apparent violation of the rule of comity requiring that one court respect the jurisdiction of another, it certainly was not Morse, and he is not in a position to profit by any such exhibition of bad manners.⁴¹

⁴⁰ 267 U. S. 80.

⁴¹ *Silberschein v. United States*, 268 U. S. —, holds that the decisions of the

VII. QUESTIONS OF STATUTORY CONSTRUCTION

1. THE ANTI-TRUST ACTS

Another chapter in the story of the long struggle between the miners and the Coronado Coal Company was written during this term of court. In the first Coronado Coal Co. case,⁴³ decided in 1922, the court had created a profound sensation by holding that a labor union could be sued for damages. It was the American Taff-Vale decision. The court had held, however, that the international miners' union could not be held liable for the occurrences of this particular strike since they had assumed no responsibility in the matter, and the case was sent back to the trial court for appropriate action. The lower court thereupon directed a verdict in favor of all the defendants, including the local union as well as the international. This action came before the Supreme Court for review in Coronado Coal Co. v. United Mine Workers of America.⁴⁴ The previous ruling as to the international union was re-affirmed, but the court found evidence indicating a conspiracy on the part of the individual defendants and the local union to obstruct interstate commerce. This was inferred from the fact that the strike was aimed to prevent coal from being mined in competition with coal in other states. The directed verdict in favor of the local union was found, therefore, to be error and a new trial was ordered.

Two cases of considerable interest to business men and economists alike are the cases of Maple Flooring Manufacturers Assoc. v. United States,⁴⁵ and Cement Manufacturers Protective Association v. United States,⁴⁶ in which the so-called "open price agreements" in accordance with which these two trade associations carried on their operations were scrutinized for possible violations of the federal anti-trust acts. In the American Column & Lumber Co.⁴⁷ and the American Linseed Oil Co. Cases,⁴⁸ somewhat similar plans for "open competition" had been held unlawful, since the court regarded the arrangement for the exchange

director of the Veteran's Bureau are final "unless the decision is wholly unsupported by evidence, or is wholly dependent upon a question of law, or is seen to be clearly arbitrary or capricious."

⁴³ United Mine Workers of America v. Coronado Coal Co., 259 U. S. 344.

⁴⁴ 268 U. S. 295.

⁴⁵ 268 U. S. 563.

⁴⁶ 268 U. S. 588.

⁴⁷ 257 U. S. 377.

⁴⁸ 262 U. S. 371.

of detailed trade information as a "concerted action in the curtailment of production and increase of price, which actually resulted in a restraint of commerce, producing increase of price." In the present cases the court failed to find any definite restraint of trade although the provisions for the dissemination of facts regarding prices, productions, etc., were closely analogous to those under review in the earlier cases, so close in fact that one is inclined to feel that the later decision represents a change of mind on the part of the court. A vigorous dissenting opinion was written by Justice McReynolds, who had written the majority opinion in the American Linseed Oil Company Case, concurred in by Justices Taft and Sanford, bitterly attacking the decision as allowing a subterfugeous violation of the prohibitions of the Sherman Act. The result reached, however, and the opinion of Justice Stone supporting it, constitute both good law and good economics. It seems clear that competition is not normally restrained by organized publicity with reference to business methods, prices, and other trade matters, and these cases applying the "rule of reason" to trade associations represent an intelligent approach to an important problem of modern business organization.

2. THE TRANSPORTATION ACT OF 1920

It is no news to learn that the Transportation Act of 1920 did not, by creating the Railway Labor Board, establish a system of compulsory arbitration for labor disputes between interstate carriers and their employees. The case of Pennsylvania R. R. System & Allied Lines Federation v. Pennsylvania R. R. Co.⁴⁸ holds that the failure of the road to comply with the findings of the board does not subject the company to any civil or criminal liability. The decrees of the board cannot be enforced by mandamus, but must depend for their sanction upon publication and the resulting force of public opinion. This result was forecast by the decision of the court in Pennsylvania R. R. Co. v. Railway Labor Board, in 1923.⁴⁹

3. PUBLICITY OF INCOME TAX RETURNS

After thousands of persons of substantial means had been grieved and shocked to have their income tax returns published in the daily press the government brought criminal actions against certain newspaper publishers in an effort to determine whether Congress in providing for

⁴⁸ 267 U. S. 203.

⁴⁹ 281 U. S. 72.

the publicity of income tax returns could have meant what it said. It learned from the decision in *United States v. Dickey*⁵⁰ that it did. The clause of the act requiring that the returns should be "made available for public inspection" was held to protect the press from prosecution under the provision penalizing the printing or publication of returns in any manner "not provided by law."

4. THE RIGHTS OF ALIENS

Two cases involving the rights of orientals to acquire United States citizenship came before the court, and in each case the right was denied. *Toyota v. United States*⁵¹ arose under the provisions of the act of 1919 allowing "any person of foreign birth who served in the military or naval forces of the United States during the present war" to become naturalized under very liberal regulations. The court, speaking through Justice Butler, held that this provision does not mean literally "all persons of foreign birth," but was intended essentially to permit the naturalization of Filipinos, who, since they are not aliens, could not be naturalized under the regular statutes. Consequently Toyota, a Japanese, who had served some ten years in the United States Coast Guard Service, receiving more than eight honorable discharges, had his certificate of naturalization (improvidently issued by a literal-minded district court) cancelled. Chief Justice Taft dissented without separate opinion.

In *Chang Chan v. Nagle*⁵² it is held that under existing statutes a Chinese woman marrying an American citizen does not acquire American citizenship by virtue of that marriage, nor does she become eligible to naturalization. That she may, however, enter the country has been decided by a federal district court in the case of *Ex parte Chiu Shee*,⁵³ a ruling upon which the Supreme Court has not as yet passed.

B. QUESTIONS OF STATE POWER

1. THE FOURTEENTH AMENDMENT

1. *The Meaning of "Liberty"*

A superficial glance at the judicial history of the Fourteenth Amendment would perhaps justify the conclusion that the due process clause

⁵⁰ 268 U. S. 378.

⁵¹ 268 U. S. 402.

⁵² 268 U. S. 346.

⁵³ 1 Fed. (2d) 798.

has been essentially a protection to property and the rights appertaining to it. The social and economic legislation invalidated or sustained under it has affected freedom of contract, regulated methods of business, or imposed burdens which were economic in character. The range of legislative interference in men's affairs, whether justifiably or not, is rapidly increasing, and the individual citizen is beginning to feel more and more the pressure of legislative restraint previously reserved for the business man or the corporation. And these laws designed to regulate in varying degrees what one may drink, smoke, wear, say, print, or teach, or how one may educate one's children, are bringing to the courts under the Fourteenth Amendment a series of cases of enormous importance as marking out the character and extent of the "liberty" which may not be denied without due process of law.

These cases are interesting also because they emphasize how effectually, in spite of the famous decisions of the Reconstruction period, the civil rights of the ordinary individual have been "nationalized," or placed under federal protection. It has been axiomatic for nearly a hundred years that the federal bill of rights does not restrain state action,⁶⁴ and in *Maxwell v. Dow*⁶⁵ the court held that the guarantees of the first eight amendments are not included in the privileges and immunities of citizens of the United States which the states are forbidden by the Fourteenth Amendment to abridge. It has become customary to say, therefore, that for any invasion by the state governments of such liberties as are safeguarded in the federal bill of rights one must depend for redress upon the bills of rights of state constitutions as enforced in the state courts. While this is undoubtedly true, it is also true that recent decisions of the Supreme Court hold, or suggest *in dicta*, or imply that "liberty" in the due process clause of the Fourteenth Amendment includes freedom of speech, religion, and allied civil liberties.⁶⁶ There is reason to believe that the same result would be reached with respect to freedom of assembly and protection against

⁶⁴ *Barron v. Baltimore*, 7 Peters 243.

⁶⁵ 176 U. S. 581.

⁶⁶ In *Meyer v. Nebraska*, 262 U. S. 390, Justice McReynolds makes this statement regarding the meaning of the term "liberty" as used in the due process clause: "Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men."

unreasonable searches and seizures. It has been definitely held, on the other hand, that due process of law does not include protection against self-incrimination,⁵⁷ grand jury indictment,⁵⁸ or jury trial,⁵⁹ among the various procedural guarantees accorded by the federal bill of rights to persons accused of crime. Perhaps it would be substantially accurate to borrow the distinction drawn in the Insular Cases, which in applying the provisions of the bill of rights to unincorporated territories, classified those provisions into those which are fundamental as contrasted with those which are procedural or remedial,⁶⁰ and say that all of the really fundamental rights secured by the first eight amendments may be subsumed under the term "liberty" in the due process clause and as such will be protected by the federal courts against state aggression.

It is in line with the doctrine just discussed that the case of *Gitlow v. New York*⁶¹ came to the Supreme Court under the Fourteenth Amendment. Did the New York Criminal Anarchy Act of 1902 under which Gitlow was convicted violate due process of law by arbitrarily abridging freedom of speech and press? While admitting the question to be properly raised, the court held, seven to two, that it did not. The restriction upon freedom of speech and press involved was not arbitrary, but was reasonably designed to conserve the public safety and welfare and could properly be imposed under the state's police power. The implication is obvious, however, that had the restraint not been deemed reasonable it would have been held to violate the due process clause. The case is interesting as involving the first decision of the court upon the validity of a peace-time restriction upon public utterance and publication. The act, passed long before the war, was violated by Gitlow after the war, by the publication of the "Workers' Manifesto" urging the laboring group to adopt violent measures to secure their rights. It is to be regretted that in dealing with the case the court applied once more the "bad tendency" test which was set up in the *Abrams Case*⁶² and later war-time cases, in accordance with which one may be punished for utterances or publications the general tendency or effect of which is toward the culmination of objects which might properly

⁵⁷ *Jordan v. Massachusetts*, 225 U. S. 167.

⁵⁸ *Hurtado v. California*, 110 U. S. 516.

⁵⁹ *Twining v. New Jersey*, 211 U. S. 78.

⁶⁰ A clear statement of this distinction is found in *Hawaii v. Mankichi*, 190 U. S. 197.

⁶¹ 268 U. S. 652.

⁶² *Abrams v. United States*, 250 U. S. 616.

be forbidden. The sounder rule laid down by Justice Holmes in the Schenck Case⁶³ would permit punishment only for words uttered under circumstances such as to create a "clear and present danger," and it was because of their insistence upon this rule that Justice Holmes and Brandeis were led to dissent in the present case. Since this decision, Gitlow has been pardoned by Governor Smith.

The Oregon School Law, enacted by popular initiative in 1922, requiring all children of school age to attend the public schools of the state, attracted nationwide attention, and the Supreme Court's decision in the case of *Pierce v. Society of Sisters of Holy Names*,⁶⁴ invalidating it as an abridgment of the liberty guaranteed by the due process clause of the Fourteenth Amendment, was received with very general approval. Without questioning the state's right to regulate its public schools, or to compel children of school age to be in school, the court concluded that education cannot be made a state monopoly, that children are not wards of the state, and that parents, under the Constitution, enjoy the right to direct the education of their children by selecting the school, if it be an adequate one, which they may attend. The owners of private schools and those who teach in them also enjoy a constitutional right to continue undisturbed in the practice of a business and a profession which, so far from being deleterious, is helpful and beneficial. The opinion of Justice McReynolds is brief and relies heavily upon the case of *Meyer v. Nebraska*,⁶⁵ holding that the state can not, consistently with due process, forbid the teaching of foreign languages in private schools. It will be noted that neither the Meyer case nor the Pierce case, dealing as they do with attempts to regulate private schools by state law, furnishes any direct precedent applicable to the Tennessee Anti-Evolution Act, now in litigation, which forbids the teaching of evolution in the tax-supported schools of the state.

2. *The Police Power*

In *Wolff Packing Co. v. Court of Industrial Relations*⁶⁶ the Supreme Court completed the work of emasculating the Kansas court of industrial relations by holding, in substance, that it is a denial of due process of law to impose a system of compulsory arbitration upon a competitive business not affected with a public interest. In the case

⁶³ *Schenck v. United States*, 249 U. S. 47.

⁶⁴ 288 U. S. 510.

⁶⁵ 262 U. S. 390.

⁶⁶ 267 U. S. 552.

bearing the same name decided in 1922,⁶⁷ the court had held void those sections of the Kansas statute authorizing the court of industrial relations to set up a judicially enforceable wage rate in the packing industry, and had remanded the case back to the state court for further action. The present case came up on error from the supreme court of Kansas which, after the earlier decision, had vacated its original judgment enforcing the industrial court's wage scale, but had issued a mandamus to compel compliance with that portion of the order of that tribunal which fixed hours of labor. In holding this part of the order void, the Supreme Court struck, not at the intrinsic content of the order, which, under the doctrine of *Bunting v. Oregon*,⁶⁸ would seem clearly constitutional, but at the process of compulsory arbitration by which the order was issued. This, declared Justice Van Devanter, was an arbitrary interference with freedom of contract, since a business not affected with a public interest cannot be compelled to submit to regulations thus imposed. It is safe to say that this decision effectually destroys the last vestige of power given by the statute to the court of industrial relations to enforce its decrees by judicial methods. While its authority to "enjoin strikes in order to prevent the interruption of operation in essential industries" has not yet been the subject of litigation, there seems no logical ground upon which that power can be sustained consistently with the decisions already rendered. Thus the famous Kansas tribunal ceases to be a court and becomes merely an investigating board similar to the railway labor board with power to enforce its findings only by resort to the sanctions of public opinion.

The case of *Samuels v. McCurdy*⁶⁹ pushes to the farthest extreme the right of the states to deal with the liquor problem. It sustains a Georgia statute entirely forbidding the possession of liquor for personal use, even when the liquor was lawfully acquired before the enactment of the law. This goes a step beyond the case of *Crane v. Campbell*,⁷⁰ in which possession for personal use was forbidden when the liquor was acquired after the enactment of the law. But the court regards the Georgia statute as a not unreasonable means of preventing unlawful manufacture and use of intoxicants, and a legitimate method of reducing the evils of drunkenness. Justice Butler wrote a vigorous dissenting

⁶⁷ 262 U. S. 522.

⁶⁸ 243 U. S. 426.

⁶⁹ 267 U. S. 188.

⁷⁰ 245 U. S. 304.

opinion denying that there is any relationship between this drastic regulation and any legitimate object of the police power.

The court sustained the New York "kosher" meat statute of 1922 in the case of *Hygrade Provision Co. v. Sherman*.⁷¹ Since the penalties of the act applied only to those who "with intent to defraud" sold meat as "kosher" which is not so, the act could not be held void for uncertainty. The act seems to fall clearly under the state's police power to prevent deception and fraud, and the alleged interference with interstate commerce was found to be too trivial to have any weight.

In *Yeiser v. Dysart*⁷² the right of the state to fix the amount of attorneys' fees for prosecuting claims under a workmen's compensation act is sustained. In this instance the fees were to be fixed by the court. Such legislation is declared to be necessary for the protection of injured persons from improvident contracts, an object long recognized as a legitimate end of police legislation. Furthermore, the right to practice law is a right coming from the state and may be surrounded by the state with such conditions as are deemed necessary to the public good. The decision seems consistent with the theory that the lawyer is an officer of the court and as such may be burdened with obligations which could not be imposed on members of other professions.⁷³

3. Taxation

A very important case in the constitutional law of taxation, *Frick v. Pennsylvania*,⁷⁴ lays down the eminently sound rule that a state may reach by its inheritance tax laws the transfer of tangible personal property only when that transfer takes place within the boundaries of the state. Concretely, Pennsylvania, where Mr. Frick had his domicile, cannot levy an inheritance tax upon the transfer of his thirteen-million-dollar art collection located in New York City, nor upon the tangible personality bequeathed to his wife and located in Massachusetts. This decision clarifies an important problem which has until now been in a

⁷¹ 286 U. S. 497.

⁷² 267 U. S. 540.

⁷³ *Endicott Johnson Co. v. Encyclopedia Press*, 286 U. S. 285, upheld as consistent with due process of law a New York statute providing that the wages, salary, or income of a judgment debtor may be garnisheed up to 10% by his creditor without notice to such debtor provided he has an income or wage of as much as \$12 per week, and requiring that the employer must pay this amount from wages due the debtor or become liable himself to the judgment creditor.

⁷⁴ 288 U. S. 473.

state of confusion. The Supreme Court in *Blackstone v. Miller*⁷⁵ indicated that the state of domicile could tax the succession of intangible personal property located outside the state upon the theory that it enjoyed jurisdiction over the person of the testator, and the weight of authority in the state courts sustained a similar right in the state of domicile to tax the succession of tangible chattels located elsewhere. Since the state in which the chattels were located obviously could also tax their succession, the possibility of double taxation was always present. The decision in the present case overrules these state decisions and holds that state taxation of the succession of chattels cannot consistently with due process extend to those not located in the state.

In *Bass, Ratcliff & Gretton v. State Tax Commission*,⁷⁶ a foreign corporation is held not to be deprived of its property without due process of law by the collection of an annual franchise tax computed by allocating to the state a part of the corporation's net income proportionate to the amount of its property in the state, even when it derived no net income from its business in the state. The tax was held a tax on the privilege of doing business in the state and not a tax on income. The court could see no reason why the right to carry on business in the state of New York should go untaxed merely because during a particular year the corporation derived no profit from that business. Furthermore, the whole business was a unit and transactions begun in New York ended in profitable sales made elsewhere.⁷⁷

Three cases involved due process in relation to special assessments. *Missouri Pac. R. Co. v. Western Crawford Road Improvement District*⁷⁸ held that the plaintiff's property could be assessed \$2,396.62 to cover the cost of making a preliminary survey of a road improvement district, although as a result of the survey the proposed improvement was abandoned because the cost would exceed the benefit, and although the plaintiff's property would have been benefited by the improvement to the amount of only \$1960. The court found no merit in the contention that the assessment could not exceed the anticipated benefits, as would be the case had the levy been made to cover the cost of the improvement itself. In *Kansas City S. R. Co. v. Road Improvement District No. 3*,⁷⁹

⁷⁵ 188 U. S. 189.

⁷⁶ 266 U. S. 271.

⁷⁷ Numerous objections under the Fourteenth Amendment were raised against the California inheritance tax law but the act was upheld in *Stebbins & Hurley v. Riley*, 268 U. S. 137.

⁷⁸ 266 U. S. 187.

⁷⁹ 266 U. S. 379.

the railroad was assessed 16 per cent of the value of its roadbed and sidetracks to pay for the construction in the district of roads which, quite obviously, the railroad could not directly use. Farm land in the district was assessed at 54 per cent of its value. This assessment of the railroad property was held not arbitrary, inasmuch as indirect benefits would accrue to the railroad from the increased tonnage from the district served by the new roads. No arbitrary discrimination was involved, nor was there merit in the contention that the accruing benefits ought to be distributed to the total road mileage of the plaintiff rather than to the actual mileage in the road district. It was decided in *Lee v. Osceola & Little Road Improvement District*⁸⁰ that special assessments may not be levied on land now in private hands for benefits derived from road improvements completed while the land was the property of the United States government.

4. The Regulation of Public Utilities

Of the cases involving public utility regulation in its various phases, the most interesting is the case of *Ohio Utilities Co. v. Public Utility Commission*.⁸¹ It is here held that in computing the reproduction value of the property of a public utility for rate-making purposes it amounts to a denial of due process of law to fail to make allowance for the cost of organization and other overhead charges such as incorporation fees, attorney's fees, costs of preparing and issuing certificates of stock, as well as interest on the investment during the period required for actual construction. All these charges would have to be borne in reproducing the plant and they must accordingly be added to the actual cost of physical construction.⁸²

While it is true that a public utility cannot consistently with due process be required to continue to render service at a loss, the right to discontinue service on this ground is hedged about with certain procedural and substantive restrictions for the protection of the public. That such discontinuance may not be put into effect without seeking the consent of the state public utility commission when the statutes so require is held in *Western & Atlantic R. v. Georgia Public Service*

⁸⁰ 268 U. S. 643.

⁸¹ 267 U. S. 359.

⁸² Two cases involving questions of due process in the computation of rates are *Banton v. Belt Line Ry. Corp.* 268 U. S. 413, and *Northern Pac. R. Co. v. Dept. of Pub. Works of Washington*, 268 U. S. 39.

Commission.⁸³ In *Fort Smith Light & Traction Co. v. Bourland*⁸⁴ the plaintiff was compelled to continue service on a small portion of its system upon which it claimed to be incurring a loss and upon which new expenditures were required. The plant as a whole was operating at a profit and the court held that while, in the absence of a contract otherwise binding it, the company might surrender its entire franchise, it could not continue to enjoy that franchise and at the same time escape from its burdens.

5. Miscellaneous—Aliens—Eminent Domain

The California Alien Land Law provides for the escheat of land sought to be unlawfully transferred to persons (aliens ineligible to citizenship) ineligible to hold it, and declares a *prima facie* presumption that the conveyance is made with unlawful intent if the property is taken in the name of a person other than an ineligible alien when the consideration is actually paid or agreed to be paid by an alien. This presumption of guilty intention is held in *Cockrill v. California*⁸⁵ not to violate the guarantees of due process of law, equal protection of the law, or the treaty rights of Japanese subjects. The inference of intent from the facts set forth is not fanciful or arbitrary, the classification involved in creating the presumption only when the money is paid by an alien is in harmony with the general purposes of the statute which has already been held valid, and our treaties with Japan do not give subjects of that nation any protection against rules of evidence which do not violate the Fourteenth Amendment.

Due process of law is not denied in eminent domain proceedings which allow thirty days time in which to appear and file objections or claims for damages, which serve notice upon affected land owners only by publication in the local newspapers, and which do not allow any opportunity for a hearing upon the question of the necessity for the improvement, such question being legislative in character. This is held in *North Laramie Land Co. v. Hoffman*.⁸⁶

II. STATE LEGISLATION AFFECTING INTERSTATE COMMERCE

1. State Police Regulations

When the Supreme Court in 1922⁸⁷ declared unconstitutional the North Dakota Grain Grading and Inspection Act of 1919 the majority

⁸³ 267 U. S. 493.

⁸⁵ 268 U. S. 258.

⁸⁴ 267 U. S. 330.

⁸⁶ 268 U. S. 276.

⁸⁷ *Lemke v. Farmers Grain Co.*, 258 U. S. 50.

opinion, written by Justice Day, implied that some of the regulations affecting grading, inspecting, and weighing might be held valid if they could be separated from that portion of the statute permitting the state commission to fix the prices at which the grain must be bought at the elevators. Accordingly in 1922 a new grain grading act which omitted the price-fixing provisions was proposed and enacted by popular initiative. It provided, however, for an elaborate system of inspection, grading, and weighing, and among other things forbade the sale of grain which had not been "graded by a licensed inspector, either state or federal," required all operators of elevators to pay cash or else file bond to secure payment for grain purchased, and compelled every buyer of grain operating an elevator to secure a state license upon the payment of a fee. Reaffirming its previous holding that the purchase of grain within the state is interstate commerce when in the usual course of business that grain is to be shipped at once to points outside, the court holds the new act void as a burden upon interstate commerce.⁸⁸ It requires a state license to engage in such commerce, it forbids the sale of ungraded grain although such grain is a legitimate article of commerce, and by its various other provisions embarrasses and restricts interstate transactions. If the evils which the state law aims to alleviate are real and substantial the power to remedy them rests in Congress which has passed a national Grain Standards Act and may enact even more drastic regulations.

In two cases of interest and importance state regulations for the use of state highways were held to involve undue burdens upon interstate commerce. A Michigan statute of 1923 forbade any one from using the public highways of the state for the transportation of passengers or property for hire without obtaining a permit and paying a fee. Those operating under such permits were declared to be common carriers and were subjected to certain requirements in the matter of insurance or indemnity bonds to cover losses incurred by patrons. In *Michigan Public Utilities Commission v. Duke*⁸⁹ it is held that this act cannot constitutionally be enforced against the defendant who carries on the business of trucking automobile bodies from Detroit to Toledo under contract and who engages in no other business. To require him to use his facilities as a common carrier and to file an indemnity bond would amount to a serious interference with the interstate commerce in which he is exclusively engaged. Furthermore to impose by legislative

⁸⁸ *Shafer v. Farmers Grain Co.*, 268 U. S. 189.

⁸⁹ 266 U. S. 570.

flat the status of a common carrier upon one engaged in a purely private business amounts to the taking of private property for public use without just compensation and consequently a denial of due process of law.

In *Buck v. Kuykendall*⁹⁰ was involved the validity of an act of the state of Washington which forbade common carriers for hire to use the state highways by automobile between fixed termini or over regular routes without getting from the director of public works a certificate that the public convenience and necessity required such operation. The plaintiff wished to operate a bus line over the Pacific Highway from Seattle to Portland, Oregon, exclusively for interstate passengers and express. He complied with all the other requirements of the state law, but was refused a certificate of public convenience on the ground that the territory in which he wished to operate was adequately served by buses already. The Supreme Court held that the statute as enforced against Buck was unconstitutional. While the state may make reasonable police regulations for the use of highways, and may even affect interstate commerce incidentally thereby, and while it may also impose a reasonable license fee for the use of state highways,⁹¹ it may not deny the right to engage in interstate commerce to any one nor directly obstruct such commerce, as in this instance. The court mentions the fact that the highway in question was built with the aid of federal funds, implying that that circumstance might increase the interest which the federal government has in maintaining the free and unrestricted use of the highway. In the case of *Bush & Sons v. Maloy*,⁹² however, coming up on facts almost identical with those in the Buck case, the highway in question was built by state funds alone and the court reached the same decision.

2. State Taxes

In *Real Silk Hosiery Mills v. Portland*⁹³ a municipal ordinance which required persons going from place to place taking orders for future delivery of goods and receiving money in advance for them to secure a license, pay a fee, and file a bond, was held void as an interference with interstate commerce under the authority of the well-known case of *Robbins v. Taxing District of Shelby County*.⁹⁴

⁹⁰ 267 U. S. 307.

⁹¹ *Hendrick v. Maryland*, 235 U. S. 610.

⁹² 267 U. S. 317.

⁹³ 268 U. S. 325.

⁹⁴ 120 U. S. 489.

In three cases state taxes imposed upon foreign corporations were found unconstitutional as burdens upon interstate commerce.⁹⁵ Space does not permit comment upon the complicated provisions of these statutes, but the cases emphasize anew that a state in dealing with a corporation which it may exclude entirely from its borders may not impose upon it as the price of admission burdens of taxation in themselves unconstitutional.

III. THE FIFTEENTH AMENDMENT

The procedural difficulties which confront the negro in attempting to assert his rights under the Fifteenth Amendment are demonstrated in the case of *Love v. Griffith*.⁹⁶ The city democratic committee in Houston, Texas, promulgated a rule that negroes would not be permitted to vote in the democratic municipal primary on February 9, 1921. The plaintiff, on February 3, sought an injunction to restrain the enforcement of the rule on the ground of its alleged violation of the Fifteenth Amendment. A demurrer was filed by the defendants which was sustained by the trial court two days before the holding of the primary and an appeal was taken to the state court of civil appeals. This court, handing down its decision months after the primary election had been held, decided that since the opportunity to grant injunctive relief had past it would not entertain the appeal on the mere question of costs. This ruling is here sustained by the Supreme Court, although the opinion of Justice Holmes states: "If the case stood here as it stood before a court of first instance, it would present a grave question of constitutional law and we would be astute to avoid hindrances in the way of taking it up." Apparently one cannot raise a constitutional question by a petition for injunction unless there is time for a final decision upon such question before the opportunity for the actual granting of relief has expired.

IV. THE OBLIGATION OF CONTRACTS

Where a consumer contracts for a supply of gas from a private concern, but under circumstances which show that public service is intended, the contract may become a subject of public regulation and the rates may be increased without impairing the obligation of the contract.⁹⁷

⁹⁵ *Ozark Pipe Line Co. v. Monier*, 266 U. S. 555, *Air-Way Electric Appliance Corp. v. Day*, 266 U. S. 71, *Alpha Portland Cement Co. v. Massachusetts*, 268 U. S. 203.

⁹⁶ 266 U. S. 32.

⁹⁷ *Fort Smith Spelter Co. v. Clear Creek Oil & Gas Co.*, 287 U. S. 231.

FOREIGN GOVERNMENTS AND POLITICS

EDITED BY WALTER J. SHEPARD

Brookings Graduate School

The Canadian Election of 1925. For six years Canada has suffered from a peculiar interaction of economic and political fatalities; and the indeterminate outcome of the general election of October 29, 1925, did little, if anything, toward straightening out the confused situation. First of all may be noted the way in which this situation developed; then some attempt may be made at an analysis of the setback which Premier King's government sustained at the polls.

On the one hand, when Canada's pre-war standard of prosperity failed to return, an acute state of sectional discontent was engendered, calling for the application of legislative prescriptions ranging in character from mild to heroic. On the other hand, the disinclination and apparent incapacity of Conservative and Liberal parties alike to put to the test any of the more drastic proposals popularly demanded by the disaffected farmers culminated by 1919 in the emergence of a militant Progressive party, centering, to be sure, in the prairie provinces, but having eastward reaches well into Ontario. This development hastened the temporary breakdown of the normal two-party system to which the war had, in Canada as elsewhere, dealt a damaging blow. The Meighen Conservative régime was overwhelmed in the elections of December, 1921, and the newly organized, but rather poorly disciplined and led Progressive party swept the central provinces and went to Ottawa with over sixty seats—fifteen more than were retained by the demoralized Conservatives.

While the Liberals won at that election, in all, 117 seats, including a complete bloc of sixty-five from Quebec, their "Solid South," the new government of Mr. MacKenzie King, not quite having even a bare majority in the House of Commons, was forced to depend upon the agrarian radicals for sufficient votes to remain in office. The relations of Liberals and Progressives, however, turned out to be, at best, but a half-hearted and spasmodic alliance. The somewhat discordant radical elements among the latter were able during the four sessions of the Fourteenth Parliament to extract merely "a few reformatory com-

cessions by levying periodical 'blackmail' on the King government. But the inability of its titular chieftains, for the most part ex-Liberals, to discard a certain feeling for their old faction," tended to keep it from becoming "a vigorous, independent party of protest and constructive radicalism."¹ To add to the complicated situation in which the cabinet was placed, there was Quebec, from which it obtained the backbone of its support—Quebec, now a stronghold of protectionism almost as pronounced as that of Ontario and the maritime provinces. Despite the clamor of the agrarian bloc for "freer trade," all the government was willing to countenance was an almost insignificant reduction in tariff rates. Taxation continued practically at its war-time peak; the Fordney-McCumber tariff wall at the border acted so as to prolong Canadian industrial stagnation; unemployment in Canadian industrial centers became increasingly alarming; and by 1924 the exodus of sorely-pressed Canadians to the United States reached approximately 300,000, a figure which was but feebly offset by an influx of 148,000 from the outside. Government revenues were falling, and the annual deficit on the state-owned Canadian National Railways was a heavy load for the federal treasury to carry. Although crops were uniformly good in 1922, 1923, and 1924, the cost of living for urban workers as well as farmers continued to mount, and thousands of Canadians began to wonder why the government did not do something about it all.

The fourth session of Parliament came to an end in June, 1925, after another record on the part of the government as unimpressive as its earlier enactments. Troubled by his uncertainty of tenure of office, yet equally fearful of a dissolution and the consequent general election, Mr. King made repeated appeals to the disaffected Progressives for a closer alliance with the Liberals as the only hope of preventing the return of the Conservatives to power. But whatever may have been the chances of such a *mariage de convenance*, they were compromised by the emergence of the perennial Canadian railroad problem in an acute form. The West arose in indignation over the action of the Dominion railway commission in setting up a new schedule of freight rates replacing, among others, the special low rates that had been given permanence by the famous Crows' Nest Pass Agreement between Sir Wilfred Laurier and the Canadian Pacific as far back as 1897. In return for an annual subsidy, these rates were to be perpetual, although they were temporarily increased during the war for revenue purposes. The railway com-

¹ J. A. Stevenson, "Strains on Canadian Confederation," *New Republic*, Jan. 7, 1925.

mission, however, held that since it had been established subsequent to this special agreement, it had full discretionary powers to provide an entire new schedule of rates. When Parliament convened in February, 1925, the government found the western Progressives in an ugly state of mind. The former finally gave them a sop in the form of a compromise act which re-established the privileged rates on eastbound flour and grain only, but allowed the railway commission a free hand to make a new freight rate structure for the whole Dominion. While the eastern provinces lined up solidly behind the government's decision, the regions west of the Great Lakes were still unsatisfied, British Columbia having a special grievance in that the special low rates were not extended to westbound traffic going to Vancouver.

The government also failed to make any effective progress on the problem of curbing oceanic freight rates on the North Atlantic. Its curious project for granting to Sir William Petersen, a British shipowner, an annual subsidy of \$1,350,000 in return for the service of ten modern freighters at specifically fixed lower rates was saved complete annihilation by the sudden death of Sir William on the same day that the report of a special parliamentary committee declined to accept the contract even in a much modified form. Notwithstanding definite pledges that an alternative vote bill, long demanded by the Progressives, would be passed during the session, dissensions within the Liberal party forced the government to withdraw the measure. Strong Conservative and Progressive opposition likewise obliged the cabinet to abandon a proposed long-time lease of hydro-electric power at the Carillon Rapids in the Ottawa River to a group of American capitalists. In fact, the only positive achievements remaining to the government's credit were (1) a new Grain Act, based largely upon the recommendations of a royal commission, and (2) commercial treaties with Finland, the Netherlands, and Australia, although the agreement with Australia had to meet a considerable attack from both Conservatives and Progressives before it was finally passed—on the one hand, because it would weaken the wall of protection for Canadian farmers, and on the other, because it raised the duties on dried fruit and would therefore increase the cost of living.

It was with such an uninspiring record as this that the King government made its appeal to the country for a new mandate which would give it an increased majority in the House and enable it to carry through an effective program. Moreover, between the prorogation of Parliament on June 27 and the announcement of its dissolution on September 5 the

Liberals suffered severe reverses in provincial elections held in Nova Scotia and in New Brunswick. In the former province, where the Liberals had held power unbrokenly for over forty years, they lost all but three seats out of forty-two, following a spirited campaign in which the effects of emigration, industrial depression, and the failure of the Dominion labor minister successfully to handle a miners' strike at Cape Breton combined to overwhelm the party in power. Later, in New Brunswick in August, the Conservatives captured thirty-six of the forty-eight seats in the provincial legislature. Only in Saskatchewan did the summer yield a Liberal victory anywhere in the provinces; there the Liberal government under Mr. Dunning had in June easily maintained its dominant position.² Observing the strong tide of opinion running against the tottering King régime, Mr. Meighen and the Conservatives began to think that they could enter the campaign on the single issue of the government's record; and not a few Liberals, frightened at the ominous events of the summer, urged that the appeal to the country be postponed until 1926. Apparently encouraged, however, by evidences of returning economic prosperity and by Liberal victories in a number of by-elections, Mr. King decided to stake his chances on an autumn election, and the polling day was fixed for October 29.

On account of the general confusion in the party situation, the campaign, on the whole, was devoid of vital, clear-cut issues. It was slow in gathering momentum; and at times it descended to the plane of personalities. As one would expect from the foregoing survey of the situation, the Liberals framed their appeal to the voters on the claim that without an effective majority they could not govern efficiently, and that they were the only party that had any reasonable hope of securing such a majority. They once again promised a tariff for fiscal purposes mainly and protection only incidentally; held up the bait of tax as well as debt reduction; proposed a more vigorous policy of attracting immigrants from the British Isles; favored a somewhat elaborate scheme of coöperation for the Canadian National and the Canadian Pacific Railways which might satisfy both the western public and the stockholders of the Canadian Pacific; and declared that if they were returned to power an inter-provincial conference would be convened to consider the long over-due question of senate reform. Their Conservative opponents concentrated affirmatively upon a "tariff to save Canada,"

² The Liberals had also suffered setbacks in Ontario and Prince Edward Island.

and negatively upon the "sins of the Liberals"; while the weakened Progressives pressed forward once more their "new national policy" of free trade, public ownership of railways with lower freight rates, the alternative vote, and an elective senate.

Efforts made early in the campaign to effect a real working agreement between Progressives and Liberals failed to make much headway. In spite of the fact that Mr. King specifically promised the former early in the campaign that the Hudson Bay railroad would be completed in return for their support at Ottawa, it proved virtually impossible to convince the disillusioned western radicals that he could be counted on to keep his promises.³ That the premier himself realized he could not be sure of any solidarity in Progressive support was attested by his appointment, as minister without portfolio, of Mr. C. Vincent Massey, the head of the largest firm of agricultural implement manufacturers in Canada. This action was interpreted by the anti-Liberal press as evidence of a desire to conciliate the industrial interests of eastern Canada, especially in view of the pronounced protectionist trend among the French-Canadian Liberals of Quebec and Montreal.

The brunt of the Conservative attack upon the government was borne by Mr. Meighen, admittedly an effective campaigner and an able thinker, who made extensive speaking tours from the maritime provinces to the Pacific Coast. It was significant, however, that he avoided the province of Quebec, for there the French-speaking leaders were quick to revive the old war-time issue of "conscription," which they used with great effectiveness against the Conservative leader. The latter's onslaughts against the party in power were sharpened, however, as a result of the frank declaration of Mr. MacDonald, the minister of national defense, in a speech at Amherst, Nova Scotia, on September 16, that the powers of the civil service commission should be seriously diminished in scope. Such a view was partially sanctioned later by Mr. King himself, and the Liberal party was immediately denounced from the platform and in the press as conniving at the restoration of the "spoils system," of which Canadian politics had been purged during the war period. Furthermore, there were unmistakable signs that the government was utilizing large expenditures of public funds for public works to "bribe" certain doubtful constituencies to support Liberal candidates. These shady electoral tactics probably alienated thousands

³ To gain Liberal votes in British Columbia, the government, on Sept. 3, authorized the Dominion railway commission to reduce rates on flour and grain going to Pacific ports for export. It was claimed by the opposition that this was *ultra vires*.

of voters disturbed by the undermining of political morality they saw taking place.

By what might almost be called common consent, discussion of imperial and international questions was avoided throughout the campaign. Apart from certain suspicions about Canada's obligations under the Locarno treaties, which were voiced by a number of newspapers, neither Liberals nor Conservatives hazarded any attention to the contentious issue of Canada's status in the British Commonwealth or in the world family of nations, "Mr. King fearing that declarations of nationalist faith, which might delight Quebec, would alienate Ontario and the West, and Mr. Meighen restraining any professions of imperialist zeal for exactly the reverse reason."⁴ One picturesque development of the electoral contest was the return to active politics of Mr. Henri Bourassa, after a silence of nearly two decades. Famous as the founder of the Canadian Nationalist party, which was so instrumental in defeating Laurier and the reciprocity treaty in 1911, he once more contested his old Quebec constituency, this time, however, as "a simon-pure independent" ready to work with any or all parties for a "truly national policy."

The results of the polling on October 29 largely substantiated the predictions of nonpartisan observers. The government lost heavily in the maritime provinces and Ontario, retained all but five seats in Quebec, held its own in Manitoba, Alberta, and British Columbia, and recaptured from the Progressives a majority of the constituencies in Saskatchewan. Instead of coming back with a larger majority at Ottawa, it found its strength in the House reduced from 118 to 101 seats. Aside from Prince Edward Island, where each of the two old parties returned two members; the Liberals carried only two provinces—Quebec and Saskatchewan. And, most damaging of all, Premier King and seven of his cabinet colleagues went down to defeat at the hands of their own constituents, as had Premier Meighen and seven members of the Conservative cabinet in 1921.⁵

Probably the most surprising phase of the returns was the virtual eclipse of the agrarian Progressives. Not only did they fail to elect more

⁴ *Manchester Guardian Weekly*, October 7, 1925.

⁵ Mr. King lost his constituency of North York, Ontario, by a small majority. The other defeated ministers included Mr. H. P. Graham, minister of railways; Mr. James Murdock, minister of labor; Mr. Gordon, minister of immigration; Mr. T. A. Low, minister of trade and commerce; Mr. Foster, secretary of state; and Messrs. Massey and Marler, ministers without portfolio.

than a single candidate east of Manitoba, but their strength in the provinces west of the Great Lakes was reduced to a paltry handful of twenty-three seats. In Alberta alone were they able to win a majority of the constituencies. Handicapped by a lack of funds as well as of press support, and divided as to ultimate objectives, another attempt to create a permanent party based mainly upon the foundations of agrarian discontent seemed doomed to failure.⁶

Yet the election was by no means a decisive Conservative victory. While Mr. Meighen's party more than doubled its parliamentary representation, it lacked five of winning a bare majority in the new House, which, as a result of the Representation Act of 1924, contains ten more members than did the old, making a total of 245.⁷ Although relegated to a small group little more than a third as large as that in the old parliament, the remnants of the farmers' movement still held the balance of power with which both the government and the Conservatives would have to reckon. The country did not speak with sufficient emphasis to permit an immediate return to its normal two-party system. A Liberal popular plurality of 334,000 in 1921 had become a Conservative plurality of approximately 200,000 in 1925; but coalition of some sort still appeared inevitable, short of another election, either in the formation of a new Meighen government or in the retention of Mr. King's.⁸ The Conservatives, however, fell 108,000 votes short of winning a majority of the total popular vote cast in the Dominion.

The situation created by such an electoral stalemate was without precedent in the parliamentary history of the Dominion. Immediately, politicians and press grew vociferous in their advice as to how it ought to be resolved. Conceivably, three courses of action were open to the King government. First, it might ask for another dissolution of Parliament and new elections, on the ground that the country's verdict was indeterminate. To this extreme procedure, however, insuperable ob-

⁶ Incidentally, the country parties of New Zealand and Australia underwent analogous reverses in the recent general elections in Australasia.

⁷ This act diminished the quota of Nova Scotia by 2 seats and increased that of the four western provinces as follows: Manitoba, 2; Saskatchewan, 5; Alberta, 4; and British Columbia, 1.

⁸ The statistics on the popular vote quoted here are unofficial, being based upon preliminary reports issued by the Chief Electoral Officer. The following table shows the standing of the parties, by provinces, in the new House of Commons, account being taken of the Liberal victory in the by-election of Dec. 7 in the Bagot constituency of Quebec:

jections were raised on all sides, particularly in that it would entail unwarranted expense and probably give no more decisive result than before. Secondly, Mr. King might offer his resignation and advise the governor-general to call upon Mr. Meighen, as the leader of the largest party group in the new House, to form a new government. This course, naturally, was demanded with virtual unanimity by Conservative leaders and newspapers, on the ground that the country had refused to give the Liberal government a working majority and had impliedly repudiated its claim to continue in office, all the more in that the premier and half his cabinet had failed of election. The third plan, which Mr. King announced on November 4 he would follow, was to convene Parliament at the earliest practicable date and let it decide the fate of the government. Whether, in deciding upon such a course, the Liberal chief acted against the advice of the English-speaking members of his cabinet, one cannot be certain; a number of Conservative journals, at any rate, claimed to be thus informed.⁹ Mr. King himself defended his decision by pointing out that the attitude of the House of Commons could not be known until it met and cast a vote, that upon the "main issue" of the campaign, *i.e.*, the tariff, the Liberals and the Progressives had won a majority of the seats, and that there was no reasonable hope that Mr. Meighen could carry the House on that question. In the interval, promised the prime minister, the government "would refrain from making appointments beyond such as are essential for the proper carrying on of the public business."¹⁰

<i>Province</i>	<i>Liberals</i>	<i>Conservatives</i>	<i>Progressives</i>	<i>Labor</i>	<i>Indep.</i>	<i>Total</i>
Prince Edward Is.	2	2				4
New Brunswick	1	10				11
Nova Scotia	3	11				14
Quebec	60	4			1	65
Ontario	12	69	1			82
Manitoba	1	7	7	2		17
Saskatchewan	15		6			21
Alberta	4	3	9			16
British Columbia	3	10	1			14
Yukon		1				1
<i>TOTAL</i>	<i>101</i>	<i>117</i>	<i>24</i>	<i>2</i>	<i>1</i>	<i>245</i>

This table is based upon the returns of the *Canadian Press, Ltd.*, an impartial news-gathering agency.

⁹ Cf., for instance, the *Montreal Gazette* for Nov. 5, 1925.

¹⁰ *Montreal Gazette*, Nov. 5, 1925. This promise was in line with the precedent of 1896, when the governor-general refused to sign appointments proposed by Sir

This ministerial declaration of intentions at once became the object of vehement denunciation by Conservatives throughout Canada. On the day following its publication, Mr. Meighen replied: "The Premier's statement . . . is merely an announcement of his determination to 'hang on' in defiance of a heavily adverse verdict from the people of Canada."¹¹ There was no case in the history of Canada or for a third of a century in Great Britain, he contended, where the leader of a minority group had waited for the convening of Parliament following a general election. Here the Conservative leader apparently overlooked the course taken by Stanley Baldwin after the British election of November, 1923, although it is true that Mr. Baldwin's party was still the largest numerical group in the British House, while the Canadian Liberals after October 29 did not even have a plurality of the membership of the Canadian House. Mr. Meighen's argument, however, was further buttressed by two other charges: first, that Mr. King had himself denied during the campaign that the tariff question was the "main issue," and second, that at least twenty-seven Progressive, Labor, and Independent candidates had denounced the government's record in campaign appeals. It was intimated, in fact, that the prime minister's real purpose was to dangle the lure of another parliamentary indemnity (of \$4,000) before the "hungry" Progressives in the hope that they would support the government for at least fifty days after the opening of Parliament, the minimum required by law for the payment of a sessional indemnity, and then, when defeated in the House, to dissolve it and go to the country again, with the electoral machinery still under Liberal control.¹² How, poignantly queried the Conservatives, was the government to carry on with but half its personnel, unless it waited to call Parliament until after by-elections were held, which would mean an unjustifiable delay? How much longer was Canada to have "government by order-in-council"?

While Mr. King made no open reply to the specific counts in this indictment of his decision, he reiterated during November that the government would make no appointments and proceed with no important contracts. The resignations of all the defeated ministers except Mr. G. P. Graham, minister of railways and canals, were accepted, and

Charles Tupper's government after its defeat at the polls. It will be noted that Mr. King significantly avoided any mention of cabinet vacancies in his statement to the press.

¹¹ *Ibid.*, Nov. 6, 1925.

¹² *Ibid.*, Dec. 15, 1925. Cf. also the *Toronto Mail and Empire*, Nov. 2, 1925.

the places were temporarily filled by ministers who either had been re-elected or were in the Senate.¹³ At first (November 6) it was announced that Parliament would meet on December 10 if all legal requirements as to returning writs of election and making recounts could be met by that time. Later, on December 1, the premier stated that since fifteen writs were still outstanding, the convening of Parliament would have to be deferred until January 7, 1926.

Whether Mr. King was justified in clinging to office in apparent disregard of recent parliamentary precedent in English-speaking countries, depends largely upon one's point of view. Probably the position taken editorially by the *London Times* fairly sums up the constitutional side of the case: "As long as Mr. King or his appointed successor feels in all sincerity that he commands a majority in the House, he is certainly within his constitutional rights in deciding to carry on the government up to the point at which his programme is defeated in the House of Commons."¹⁴ But was he sincere in believing he could count upon sufficient support from the divided Progressives to sustain his government? For answer to this query one must wait for subsequent events. At the date of writing (December 19), there were unconfirmed reports that the Alberta Progressives had submitted a list of demands to the prime minister as the price of their support; but the course of action to be followed by Mr. Yorke, the titular Progressive leader from Manitoba, had not been disclosed.

In any event, the Fifteenth Dominion Parliament will probably not be of long duration. When it convenes, there may be the novel spectacle of a premier without a seat, directing proceedings from the distinguished visitors' gallery! Whether the King government holds out a few weeks, or is at once ended by some unexpected vote, will depend upon the few Progressives that have survived what may have been a death blow to the hopes of the farmers' crusade. Regardless of its party complexion, any government in Canada will find itself faced with perplexing problems which have for three years strained the unity of the Dominion. Canada needs more immigrants; her railway muddle calls for a statesmanlike solution; her industries must somehow be enabled to meet American

¹³ Mr. King tried to explain why he had not sought a seat for himself by pointing out that it might delay the opening of Parliament; but the delay eventually proved to be necessary anyway. The chances are that he would have had difficulty in November in carrying any Ontario constituency that might have been offered him by Liberal members.

¹⁴ Quoted in the *Montreal Gazette*, Nov. 25, 1925.

competition; and the oppressing burden of taxation ought to be reduced. How, moreover, can the active loyalty of both the West and the maritime provinces be re-established? These are matters that would harass the ablest and most forward-looking government. Perhaps another election in a few months may give the Conservatives a clear mandate; but it seems at least doubtful whether the historic Canadian party alignment of Liberals and Conservatives, vitiated as it now is by artificial lines and heterogeneous intra-party dissensions, can permanently endure with any more promise of genuine statesmanship than is to be found in the present meaningless relationship of Republican and Democratic labels in the United States.

WALTER R. SHARP

University of Wisconsin

An Irish Free State Senate Election. In the fall of 1925 a unique electoral experiment was carried out in the Irish Free State. Nineteen senators were elected according to a system which presents a peculiar combination of electoral features. The aim of the framers of the Free State constitution was to provide a second chamber composed of men of experience and recognized ability.¹ To this end they devised the following system²: (1) the entire nation was to serve as a single electoral constituency; (2) the nomination of the candidates was left to Parliament; (3) the franchise was limited to citizens over thirty years of age; (4) the Hare system (single transferable vote) of proportional representation was to be used for the marking and counting of the ballots; (5) the senators were to be elected for twelve-year terms; and (6) one-fourth of the senators were to be elected at each triennial election.

It is hard to see how the provision for the partial renewal of the Senate at each election could be expected to increase the interest of the voters. In addition, it must be remembered that the Senate is a body of restricted powers.³

After the nominations had been made last fall, it became apparent that the nominating system left much to be desired. The position of a senator is a stable one, and consequently there was an unseemly scramble for places on the panel.⁴ Moreover, the electoral arrangements

¹ Article 30.

² Electoral Bill, Saorstat Eireann, 1923, No. 1.

³ Articles 38-39.

⁴ J. H. Humphreys in the *Manchester Guardian*, September 28, 1925 (letter to the editor).

were such that intelligent voting was made difficult. The names of seventy-six candidates were presented to the voters on a ballot paper which measured 22 inches by 16.⁵ To arrange a dozen candidates in preferential order is a task requiring considerable discrimination.⁶ Although the voters did not have to express preferences among the entire seventy-six candidates, their task was not an easy one.

Considering the nature of some of the electoral campaigns that have been held in Ireland, the senatorial campaign was extremely quiet.⁷ The chief reason for this was the fact that the nation was the constituency and it was impossible for the candidates to employ the usual electioneering methods. Resort had to be made to newspaper advertising, a type of publicity which is too expensive to employ upon a large scale. The government published a *Who's Who* of the candidates, which was reproduced in the newspapers.⁸ But apart from this there was little to guide the voter.

The election itself was also a quiet one. Only 305,000 out of 1,300,000 eligible electors, or less than 25 per cent, took part. The causes of the great number of abstentions were many. The period of polling had been reduced from twelve hours to ten, and as a consequence the poll was light in some of the working class districts.⁹ Another factor which had some influence was the bad weather on election day. The fact that the voters received no poll cards or official notices as to the location of the polling places also contributed to the great number of abstentions. Chief among the causes of non-voting at this election, however, was the boycott of the election by the Republicans.¹⁰ In the western counties, where the Republicans were strongest, the poll was uniformly low. In addition to the factors already mentioned, the confusion of the electoral system must also be given its fair weight. One voter, upon viewing the ballot, tore it up in disgust and said that experienced clerks were the only ones who could vote in such an election.¹¹

One of the objections commonly raised against the Hare system of proportional representation is the complexity of the count. The Irish election put this argument to severe test. Although only one quarter of

⁵ *The Irish Times*, September 17, 1925.

⁶ It is really the construction of a psychological rating.

⁷ *Irish Times*, September 18, 1925.

⁸ *Ibid.*, September 12, 1925.

⁹ *Irish Independent*, September 21, 1925.

¹⁰ *The Republic*, September 11, 1925. An Phoblacht, "Boycott the Election."

¹¹ *Irish Independent*, September 18, 1925.

the electorate took part in the election, there were over 300,000 ballots to be counted and distributed. The task occupied twenty-four days.¹² Ten persons were employed at the beginning, but the counting staff was later increased to forty. No candidate received the quota (15,286 votes) on the first count; so the election had to be decided by the elimination of fifty-seven of the seventy-six candidates. There were no setbacks during the count, and the universal feeling was that this feature of the system was a success. The results of the different transfers were published in the newspapers day by day, and a sustained interest in the election was manifested for over a month.¹³

The final outcome was not greeted with universal acclaim. An editorial writer in the *Irish Times* considered that the result furnished no cause for national pride.¹⁴ The candidates were not, in his opinion, persons who had done honor to the nation or had special qualifications for public service, and the electorate had in the main voted for solid mediocrity—when it had taken the trouble to vote at all. Only nine candidates reached the quota, and there were 37,704 ballots which were non-transferable. A close examination of the transfers shows that the electors were moved by such considerations as the following: political issues, economic interests, local record, personal service, and religion. The candidate who stood highest on the first count received practically all of his votes from the electors of the county in which he had been a local official. The local support obtained by the other candidates who stood high upon the first count was also considerable.¹⁵ An analysis of the transfers shows that those who voted for Labour candidates for their first choices were consistent in their second, third, and other choices. All of the retiring Labour senators were reelected. The other groups which received recognition were the licensed liquor dealers, the ex-soldiers, the farmers, the doctors, and the business men.¹⁶

The results of the experiment might be summarized as follows. The partial renewal of a second chamber of limited powers will not attract the interest of a large proportion of the electorate when the ballot is a confusing one and the size of the constituency makes electioneering difficult.

¹² The election was held on September 17, 1925, and the count was finished on October 10, following. The result was officially declared on December 6.

¹³ See the files of the *Irish Independent* and the *Irish Times*. Also consult special article in the *Irish Times*, October 12, 1925.

¹⁴ *Ibid.*, October 10, 1925.

¹⁵ *Irish Times*, September 24, 1925, "Effect of Local Vote."

¹⁶ *Ibid.*, October 10, 1925.

On the other hand, the counting of the ballots under the Hare system of proportional representation applied on a national scale attracts wide attention, and the results are sure to reflect the opinions (or lack of them) manifested by the electors in marking their ballots.¹⁷

HAROLD F. GOSNELL

University of Chicago

The New Albanian Constitution. The constitution adopted by the constituent assembly at Tirana on March 3, 1925, is the third organic law of the country to appear in the last twelve years. The first was the organic statute issued at Valona on April 10, 1914, by the International Commission of Control in Albania. By the terms of this instrument the new state was constituted a hereditary monarchy under the protection of Great Britain, France, Russia, Germany, Austria-Hungary, and Italy. The next act organizing the state was the provisional constitution adopted by Albanian leaders at Lushnia in January, 1920, and amended in 1922. This instrument set up a régime of the extreme parliamentary type, both the regency council, which provisionally headed the state, and the cabinet, which constituted the working executive, being made dependent on the confidence of a one-chamber parliament.

The constitution of Tirana differs greatly from both instruments. It differs from the statute of Valona by dropping all reference to protection and by adopting a republican form of government. It differs from the provisional constitution of Lushnia in that it shifts completely the allocation of power among the organs of the state. Before this new allocation is described, a few words may be devoted to certain changes of more detail.

The legislative organ of the state now consists of two houses instead of one. A Chamber of Deputies represents population, while a small Senate, one-third of which, including its president, are appointed by the president of the republic, represents, by virtue of the qualifications required for membership, experience and achievement in various walks of life.

While it is provided, in Article 53, that "any bill approved by the Chamber of Deputies must be presented to the Senate for consideration and approval before it is sent for approval to the president of the

¹⁷ The election of the Dail is carried out according to the Hare system, but the country is divided into districts for this purpose. For a description of the election of the Dail in 1923 see J. H. Humphreys, "The Irish Free State Election, 1923," *Contemporary Review*, October, 1923.

republic," these provisions are immediately modified by the terms of Article 54, as follows: "Bills passed by the Chamber of Deputies must be submitted to the examination of the Senate within a month if the Chambers are still in session; in the contrary case such bills shall be considered approved and shall be submitted to the president of the republic. When for whatever reason a part or all of the senators do not participate in a joint session within one month from the date set therefor, the Chamber of Deputies shall meet with the senators present, or if there are no senators present, the Chamber shall meet by itself, and shall proceed with the work which called for the joint session." It appears, therefore, that under certain circumstances the Chamber of Deputies may legislate alone.

The advantage which this gives to the popular house is, however, offset by the following provisions of Article 56: "In case of disagreement between the Chamber of Deputies and the Senate, if the former persists in its position the president of the republic has the right, with the approval of the Senate, to dissolve the Chamber of Deputies and decree new elections. Should the new Chamber of Deputies insist on the position of the previous Chamber, the decision of the new Chamber shall be definitive."

A further detail of the constitutional arrangements governing the legislature is the provision against absentee membership. Article 22 reads: "A deputy absent without leave from the Chamber for two consecutive months automatically ceases to be a member thereof." Article 64 contains almost identical provisions regarding senators. These two articles would appear to create a safeguard against the absence of legislators for the purpose of embarrassing the government, such as has sometimes taken place in other countries.

The central feature, however, of the new constitution, and the one in which it diverges most clearly from its predecessor, is the new position assigned to the head of the state. The two houses administer supreme power once, when they meet as a National Assembly and elect a president of the republic. Thereafter, during his term of seven years, he would appear, under the terms of the constitution, to be not merely the ceremonial head of the state, nor merely the representative of the principle of national continuity, but the working executive, endowed, as far as constitutional arrangements are concerned, with a degree of independence which centralizes power and responsibility to him.

It is true that Article 44 states that "the Chamber of Deputies controls the government"; and that Article 83 provides that the cabinet,

which is appointed and presided over by the president, must "appear before the Chamber of Deputies to read its program and request a vote of confidence not later than five days from date of appointment"; and that "if it fails to do so it shall be considered as not having received a vote of confidence." But the effect of these provisions appears to be vitally modified by the provisions of Article 77, which reads: "If, at two successive sittings, the Chamber of Deputies refuses a vote of confidence to the appointed cabinet of ministers, the president may dissolve the Chamber. If the new Chamber also refuses a vote of confidence, the cabinet shall fall. Until the settlement of the situation the cabinet that was refused a vote of confidence by the Chamber . . . continues in power."

In other words, the Chamber cannot indicate its want of confidence in the cabinet appointed by the president of the republic without drafting its own political death warrant. Further, the Chamber under such circumstances cannot even be certain that its self-sacrifice will achieve the object in view. The constitution is silent as to the procedure to be followed in case the Chamber disapproves of one or more members of the cabinet without disapproving of the cabinet as a whole.

While the constitution makes it difficult for the legislature to interpose in the work of the president, no difficulty is placed in the way of his interposition in theirs. Article 76 reads: "The president of the republic orders the promulgation and execution of bills passed by the two chambers. He has the right of veto." No way is provided in the constitution for overcoming the president's veto. Further, with the exception of the right of approval of the cabinet, the exercise of which is conditioned as noticed above, the constitution provides for no legislative control of the president's appointments, whether in the army, the judiciary, or the administration.

Is it possible, despite the great power vested in the presidency, to control it indirectly through the power of making appropriations? Apparently not. While Article 39 provides that "each year the executive shall submit to the Chamber of Deputies for examination and approval the proposed general budget of revenues and expenditures of the state, together with a statement of the ways and means by which the expenditures are to be met," the next article provides that "in case, for any reason, the new definitive budget has not taken legal form before the beginning of the fiscal year, the executive applies the budget of the previous year until the new budget is approved." Apparently, therefore, while the Chamber has power to embarrass the executive in the event

that the latter desires to effect changes in the revenues and expenditures of the state, it does not have power to go further.

Finally, could the legislature secure more power by amending the constitution? Article 141 answers this question. It states that "on the proposal of the president of the republic or of the ministers, the two legislative chambers have power, at special separate sittings, to decide, by a majority of two thirds, on a modification of the constitution . . ." No other way is provided for initiating a change in the organic law of the state. Power can be reallocated in the state only on the initiative of the executive.

The foregoing features of the constitution seem to confirm the provision of Article 8, which reads: "Executive power is vested exclusively in the president of the republic, who exercises it through ministers," and that of Article 75, which reads: "He (the president) directs the policy of the state."

There are, of course, certain limits. Article 75 provides that "the president of the republic does not have power to declare war or conclude peace without the consent of the Senate and Chamber of Deputies, except in case of a war of defense." As the word "defense," however, is one which is particularly subject to interpretation, it appears that even in the vital questions of peace and war a certain discretion is vested in the president.

In sum, the new constitution is significant for two reasons: (1) it is in line with the reaction which has already appeared in several European countries against the tendency shown at the end of the World War to entrust almost all effective power to the legislative department of government. While, however, in certain countries this reaction has taken extra-constitutional forms, in Albania it is incorporated in the constitution itself. (2) It illustrates the way in which one-man rule may be restored without doing violence to the democratic principle. Hereditary monarchy, in the sense of the effective rule of one person on the basis of birth, is practically extinct in Europe. Its restoration is difficult to imagine, in view of the extent to which the assumptions on which it rested have now been displaced in public opinion by those of democracy. Strong presidential government is not, however, inconsistent with democracy; and through that medium the governments of the democratized states of central Europe may in future take on rather more of the appearance which they bore in times before the last great era of constitution-making.

EMERSON B. CHRISTIE

Washington, D. C.

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INTRODUCTION

President Glenn Frank, of the University of Wisconsin, seemed to voice the common consciousness of the profession when he recently declared that what the country needs is a "league to enforce objectivity" among the social sciences. For the hopeful factor in the situation is found in the eagerness of the profession to attain this end. From every social discipline there come signs of an awakening scientific consciousness. The work of the Social Science Research Council, the establishment of its research fellowships, the creation of research endowments, the increasing strain of objectivity that characterizes our more recent literature—all bear eloquent testimony to an intelligent and eager interest in the advancement of scientific method.

The work of the National Conference on the Science of Politics is simply another manifestation of professional concern for scientific stewardship—another milestone along the pathway of objective progress. For the third time in three years, approximately one hundred men and women, representing half the states of the Union, have come together at their own expense and devoted a week of earnest labor to the problem of scientific method. The determination, enthusiasm, and confidence evidenced by these members is a striking revelation of the strength of the present movement toward perfecting a scientific technique of politics. For it must be remembered that such is the express object of the undertaking. As stated in the official announcement, "the purpose of the Conference is to unite those interested in political research in a common attack upon the problems of technique and method. These questions lie at the very threshold of scientific progress. They require the best there is of inventive genius, broad scholarship, constructive imagination, practical experience, and scientific spirit. These diverse qualities can be best brought into effective coöperation through small round-table conferences, concentrating upon the problems of method presented by a specific project of research, and attended by

a group of members equipped to make some actual contribution by virtue of their preliminary study, investigation, and experience."

In order to secure that concentration and continuity of effort essential to the most effective work, each member was required to attach himself to one of the round tables and was not permitted to attend others. To prevent any group from becoming unwieldy in size, the executive committee reserved the right to assign members to particular round tables. In some of the groups there was little change in personnel from year to year, with the result that methods suggested at one Conference were frequently tested out during the year and the results reported back at the Conference the following year. This made possible the most effective work of the Conference.

Just what are the concrete results of the movement cannot be definitely stated. The interest evidenced by the members would seem to demonstrate that it is meeting a genuine need. Questionnaires sent out to the members by the writer, after each meeting, have shown that the ideas developed at the Conference have been widely used and with excellent effect. There is also abundant evidence that a new impetus has been given to the "drive toward objectivity" that, in the minds of many, constitutes the chief hope for the future of the science.

The reports of the different groups are published herewith, in the hope that this permanent record of the results reached may be useful in refreshing the recollection of those who participated, and that it may be suggestive and stimulating to others who are grappling with the problem of method. It has been the ideal of the executive committee to make the Conference the most effective instrumentality possible by which the students of politics might do their full share in the task of perfecting the technique of social science.

The experience of the meeting further deepened the impression formed at the Chicago Conference in 1924, that scientific progress in politics can be greatly facilitated by more intimate knowledge of the contributions of psychology and statistics to scientific method. If politics is to become scientific it must be through the devising of methods by which the phenomena of political behavior may be subjected to precise measurement and accurate quantitative determination and analysis. Both statistics and psychology have made notable contributions to this problem of method, some of which are immediately adaptable to our needs and others of which will afford illuminating analogies for political research. In addition to all this, psychology seems to bear even a more intimate, organic relationship to the science of politics.

Both disciplines are concerned primarily with the phenomena of human behavior. Psychology is concerned with the field of human behavior in its entirety and in all its ramifications and implications. Politics is concerned with only so much of human behavior as affects political situations. Viewed in this light, political science becomes a form of applied psychology, and as has been recently suggested, it is quite conceivable that psychology may play the same rôle in relation to politics that physics plays to engineering. At least this is a working hypothesis of sufficient promise to justify a conscious effort to establish more intimate contacts between the disciplines involved.

To this end, the chairman is trying to secure financial support to finance a three-year program for the Conference. With financial resources, it should be possible for the executive committee to place at the disposal of every group the services of a psychologist and a statistician to present their points of view and to make what contributions these disciplines have to offer to the problem of method. Occasionally it would doubtless be desirable to have representatives of still other disciplines, depending upon the nature of the problem. There are many phases of political research in which it is conceivable that contributions of great value might be made by the neurologist, the anthropologist, the biologist, the psychiatrist, the sociologist, the economist, or the historian. Scientific method cannot recognize departmental boundaries, especially when they are so artificially conceived as not always even to be practicable. The writer is convinced that such financial assistance as will enable the committee to secure effective coöperation from the other disciplines will tremendously increase the value of the Conference.

ARNOLD BENNETT HALL

Chairman of Executive Committee

ROUND TABLE ON POLITICS AND PSYCHOLOGY

ASPECTS OF PUBLIC OPINION

At one of the early sessions Dr. W. V. Bingham presented the psychological problems involved in accident prevention, such as the study of relative effectiveness of different types of road signal, the influence of certain types of advertising near the road signals, the variation in traffic rules among different cities and states as a cause of confusion and accidents, and the problem of examining taxi drivers, truck drivers, and

drivers generally for certification of proficiency. Several such studies are now being conducted with some promise of very useful results. Another problem is that of examining more carefully by psychiatric methods those drivers who are involved in a second accident in the course of a year, on the assumption that such drivers may have characteristics which make them unsafe in emergencies. One of the main purposes of the studies of automobile accidents is to bring out the objective facts as distinguished from those inquiries which have for their objective the placing of blame. Still another type of problem is the study of the relative effectiveness of different types of punishment for traffic offenders, such as heavy or light fines, newspaper ridicule, confiscation of car either temporarily or permanently, revocation of license, and so on.

Mr. Elliott presented at several sessions the different aspects of his proposal to use interest groups as a source of information regarding public opinion. According to this plan, the numerical strength of the vote in each group would be considered as one important factor, the total size of the group as a second factor. By combining such facts for a number of large groups a fair summary of public opinion on a question might be obtained, and also some indication of the character of the groups that favor or reject any given proposal.

Mr. Leigh reported on his study of the reasons assigned by different groups for or against child labor legislation. He is trying to determine some of the factors that are responsible for changes in public opinion.

Mr. Hartman is making several studies, both in group form and with individuals, of the attitudes of students at Syracuse University on questions of public interest, in order to ascertain how these attitudes are changed by courses of instruction in the School of Citizenship.

Professor Merriam presented to the Round Table some of the discussions of Walter Lippmann in a forthcoming volume on public opinion, in which the author indicates the possibility of introducing objective studies of the subject.

L. L. THURSTONE

ROUND TABLE ON PUBLIC LAW

DETERMINATION OF METHODS FOR ASCERTAINING THE FACTORS THAT INFLUENCE JUDICIAL DECISIONS IN CASES INVOLVING DUE PROCESS OF LAW.

1. *Suggested Importance of the Undertaking.* The purpose of this group was to evolve a method by which there could be secured a be-

havior pattern of the judicial process, as exemplified in a certain type of constitutional cases. It was felt that such an achievement would be a distinct contribution to both law and politics. There has been much discussion of the political and social value of the doctrine of judicial review. Most of the controversy turns upon the nature of the judicial process involved. How far is it judicial or political? Are constitutional decisions determined by the private views of the judges or by pre-existing and intelligible legal doctrines, or by both? It seemed obvious to the group that any scientific effort to evaluate the institution of judicial review must be based upon a more accurate answer to these questions than is now available.

The value of such a study to the practicing lawyer was felt to be equally obvious. A great lawyer must be able to predict accurately the court decisions in his client's case. It is apparent that such predictability is dependent upon the nature of the forces that control judicial discretion. Any study that will picture these forces more faithfully is a distinct aid in prophesying judicial action.

Finally, it was agreed that such a study would provide an objective basis for the constructive criticism of the work of the individual judge. It seemed clear that a statistical study of the votes of a particular judge in a given class of cases, correlated with the evidence of consistency in the use of legal concepts involved in such cases, would afford a basis for evaluating the legal logic and reasoning of the particular judge. It is generally admitted that in close cases involving such vague phrases as due process of law, the decision of which frequently turns upon certain general economic and social facts upon which adequate evidence may be entirely lacking, there is always a relatively wide margin of honest error. It is hoped that by a scientific study of the different factors involved in the judicial process, it may be possible for the bench and bar to reduce this margin. To reduce the vague thing known as judicial process in such cases to some of its constituent elements ought certainly to increase the possibility of securing more scientific and intelligible standards and less rhetoric and verbiage in judicial decisions.

2. *Proposed Methods of Determining the Rôle of the Economic, Political, and Social Theories and Prejudices of the Judges in the Decision of Due Process of Law Cases.* The discussion of this aspect of the problem centered, in general, on a group of statistical studies made by Mr. Glenn H. Bell, Mr. Wilbur Katz, and Miss Anna M. Campbell, graduate students of the director and, in particular, upon a very excellent

statistical survey made by Professor Isidor Loeb, of Washington University. The general method employed by all these persons was approved in principle. It involved three steps: (1) the formulation of categories of decisions so as to correspond with the probable lines of cleavage of the economic, political, or social theories or prejudices of the different judges; (2) the making of a statistical summary of the number of cases in each category, the number that were decided by a divided court, and how each judge voted in every case coming within each category; (3) the determination of how consistently the individual judge's conclusion in each class of cases correlated with any single economic, social, or political theory or prejudice involved in the given category.

For example, Professor Loeb's study covered certain of the U. S. Supreme Court decisions from 1914 to 1924. He suggested four categories and made a statistical summary of all decisions coming within these given groups that involved due process of law. One of them was labor. He found that there were twenty-eight cases involving due process of law, where the results were clearly favorable or unfavorable to labor. Fifteen of these were by a unanimous court and thirteen by a divided court. Of the unanimous decisions, thirteen were regarded as favorable to labor, two unfavorable to labor. In the thirteen divided decisions, three justices voted every time they participated on the side favored by labor, and one voted every time for the side opposed by labor.

While there was immediate agreement that these results were significant, and that more elaborate studies along this same line should be immediately encouraged, there was a great deal of discussion and conflict of opinion as to what conclusions, if any, might be drawn from these figures. The following statement was finally formulated, in which all agreed: "In divided decisions in certain groups of cases under the due process clause of the constitution, there are constant factors with at least some judges which are explicable neither according to any legal principle which has hitherto been ascertained, or according to any recognized method of finding facts."

In regard to some minor matters of inference there was more definite agreement. It was thought to be of great significance that fifteen out of the twenty-eight cases were decided by a unanimous court in a class of cases as highly controversial as labor cases involving due process of law, and where the essential question of economic and social facts are so frequently without any scientific, objective evidence. When it is

remembered that there are members of the court who hold diametrically opposed economic and social views on the question of labor legislation, and, presumably, whose points of view, sympathies, and prejudices are in direct conflict, it seems rather clear that at least in such unanimous decisions, legal principles do prevail over the personal theories, prejudices, or points of view of the individual judges. In the other three categories covered by Professor Loeb, *viz.*, regulation of public utilities, power of taxation, and governmental intrusion into private enterprise, it appeared that the percentage of unanimous opinions was much greater than in the labor cases. This was regarded as a significant commentary upon the unsettled status of the law in that class of labor cases, and as raising the question of whether the law was as unscientific as it was unsettled. It seemed clear that the relative margin of honest error would be largely determined by the relatively unsettled status of the law. This seemed to call for some method of statistical study of the judicial doctrines involved, which received considerable attention. Suggestions were formulated which appear later in this report:

3: *The Formulation and Use of Categories in the Statistical Study of Judicial Decisions.* The question of what categories should be utilized and how they should be treated in the foregoing type of statistical study received much attention. The following suggestions were agreed upon: (1) The categories should be formulated so as to be analogous to the hypothetical theories that are being studied, *e.g.*, where one is studying the effect of economic theory, the category of labor decisions was selected because it was supposed that if economic theory or prejudice played an important rôle in judicial decision, it would be likely to appear in that type of cases. (2) The categories should be as definite and concrete as possible. Doubtful ones should be eliminated. Approval of a proposed set of categories by a group of students representing different points of view was strongly recommended. (3) The allocation of decisions to the different categories presents a difficult problem. It was agreed that all doubtful cases should be rejected, or first approved by other scholars of different points of view. Opportunities for cross tabulations and significant correlations with other possible categories should be constantly kept in mind. (4) The interpretation of results should be made with great care. Inferences should be strictly limited to the data collected. The constant temptation is to make the inference broader than the data. Cross tabulations and correlation with the data collected under other categories should be used wherever possible as a check

against false deductions. (5) The group agreed that the following categories would be useful in a further statistical study to determine the rôle of the social and economic theory and prejudice of judges in the judicial process: (a) validity of public utility regulations; (b) constitutionality of labor legislation; (c) extension of doctrine of public calling; (d) constitutional conflicts between state and federal power; (e) paternalism in government; (f) validity of taxing laws. (6) The statistical data under each category should always show the number of divided and unanimous opinions, whether the vote of each judge was a majority or dissenting vote, and the grouping of the judges in each vote. For example, five to four decisions are much more significant if always by the same five and four than if the personnel of the majority and minority are constantly changing.

4. Analysis of the Rôle of Legal Concepts and Doctrines in the Decision of Due Process of Law Cases. This part of the discussion, like that which preceded, was largely restricted to due process cases, for purposes of practical convenience. The immediate purpose of this statistical study is to provide a basis for cross tabulation with the results obtained in the type of study conducted by Professor Loeb. It is to be noted here that consistency in the use of legal doctrine is the thing to be determined, and such consistency compared with consistency in voting in accord with possible economic and social theories and prejudices that may be involved.

The following method was suggested: Make a careful summary of the due process decisions of a particular judge, with regard to each of the legal concepts thought to be significant. Note whether each concept or doctrine has been consistently employed, always used where applicable, and always with substantially the same content. Are these concepts used merely as available arguments when a judge finds them useful to attain an end deemed to be desirable on other than legal grounds, or are they guiding forces that tend to determine the judicial product? A study of the judicial attitude toward the presumption of constitutional validity, for example, might indicate that frequently it is not a controlling principle, but merely a weapon in the judicial arsenal to be used or forgotten as the circumstances might require.

If the study of a judge's attitude toward the presumption of constitutional validity were to show a capricious and inconsistent position, and a study of his votes in cases involving conflict in interests between labor and capital always found him on the side of labor in the cases of divided opinions, and the inconsistency of his position toward the

presumption of constitutional validity was obviously manifest in his opinions on labor, there would be a basis for reaching the conclusion that the judicial process of that judge, in that class of cases, was governed more by class bias, economic viewpoint, or social theory than by the legal concept involved. By this same method, this judge's attitude toward all the significant legal doctrines that might be involved in the labor decisions could be summarized and statistically treated, and the results correlated with his votes on the side of labor. This process seemed to afford a basis for determining the relative strength of the different factors involved in the judicial process of this particular judge in this type of cases. The same method could obviously be applied to other types of cases. When completed, such a statistical treatment, it was believed, might give a much more accurate picture than we now have of the judicial process of this particular judge in due process of law cases.

The following categories of legal doctrine were thought to be useful in this study: (1) presumption of constitutional validity; (2) legitimacy of legislative object; (3) appropriateness of the legislative means to end sought; (4) judicial attitude toward questions of fact which are material to the constitutional decision.

5. *Suggested Statistical Study of Judicial Decisions in Anti-Trust Legislation.* Professor Rinehart J. Swenson, of New York University, presented a report of his survey of the decisions in the above-mentioned field, made for the purpose of determining the value of the statistical method in this type of cases. Dr. Swenson and the group felt that these cases did not lend themselves so well to statistical study as other types of judicial decisions. Nevertheless such a study was recommended for the purpose of determining if any light might be thrown upon the question as to what extent considerations of public policy and the personal theories of the judges tended to control judicial decisions in this type of cases. The following categories of legal and economic doctrines were suggested as useful: (a) definition of monopoly; (b) methods of forming monopolies; (c) "rule of reason"; (d) "tying contracts"; (e) open competition plan; (f) regulation of boards of trade.

6. *A Proposed Plan for a Statistical Study of all the Formal Matters Connected with Judicial Decisions Involving Constitutional Questions.* One of the sessions of the round table was devoted to a consideration of a suggested research project presented by Dr. Rodney L. Mott, of the University of Chicago. The proposal included a statistical analysis of the formal elements centering around judicial decisions involving constitutional questions. In order that the discussion could proceed

along concrete lines, a specimen schedule, or score sheet, was presented to the round table for criticism.

The project fell into three portions, the first of which dealt with facts ascertainable from a study of the judicial decisions themselves. It was pointed out that many characteristics of these decisions are subject to a more exact quantitative measurement than has been heretofore attempted. For example, the length of the opinion, the number of appeals and retrials in a given class of cases, the proportion of the report devoted to a rehearsal of the facts, and the number of prior decisions which the court cited in support of its position are all capable of statistical treatment. While some of these quantitative measurements might not prove especially significant in themselves, they might serve to give a more accurate picture of the judicial process if considered in relation to the particular type of constitutional question involved.

The second portion of the proposed study consisted of an investigation of the conditions surrounding each case from records external to the opinion as published in the official report. Such matters as the character of the parties to the suit, the amount of consideration given to the statute by the legislature, the length and character of the briefs of the attorneys, may each be measured with a reasonable amount of accuracy. For the most part, the sources of this information are obtainable in congressional proceedings, published briefs, citations, etc. This data, again, should not be considered by itself alone, but in relation to the internal character of the opinions and the types of constitutional question involved. It seems likely that the most significant results of such a study would come only after a series of cross tabulations and correlations between various variables had been worked out.

To be complete, it was thought, such a study should include an attempt to secure data on the characteristics of the judges themselves. A considerable amount of information on the personal life, habits, training, etc., of the members of the bench is susceptible of measurement and quantitative determination. For example, it is very possible that a close correlation might be discovered between the type of education of the judge and his opinions in respect to such matters as due process of law. In other types of decisions, a relation might exist between the age of the judge and the result reached. Other social relationships, such as marital status, nationality of parents, religion, political affiliations before appointment, etc., might also give fruitful results.

It was quite evident that the results of such a study can hardly be predicted in advance. It is possible that no evidence of material sig-

nificance would be discovered. Again, the results might give only negative evidence which, although perhaps as significant as positive results, are certainly less satisfying to the investigator. Nevertheless, the round table, after a considerable discussion, seemed to feel that the method was at least worth a preliminary trial. With this in view, the schedules presented were criticised and it was recommended that a study of this nature be conducted over a period of a single decade for one court. This would give an opportunity for testing the applicability of the method to the problem of securing a behavior pattern of judicial actions, and would also afford a better basis for judging the adequacy of the schedule. It is to be regretted that limits of space do not permit the inclusion of the ingenious specimen schedule and score sheet that was submitted by Dr. Mott.

7. *Future of the Round Table.* It was unanimously decided to continue the round table for another year for the further consideration of the same general topics. Every member agreed to attend next year and to assume responsibility for testing out some of the methods herein suggested.

ARNOLD BENNETT HALL

ROUND TABLE ON THE PERSONNEL PROBLEM

SPECIFIC INVESTIGATIONS AND THE PROPOSAL OF THE CIVIL SERVICE AUDIT

The round table divided its time fairly equally between (1) specific problems and (2) the consideration of methods of appraising a public employment situation.

1. *Specific Suggestions for Investigation.* Specific suggestions for investigation were proposed in the thought that research agencies, including the faculties and graduate students of the universities and colleges, might make fruitful contributions to the field of personnel administration, and at the same time gain insight into administrative practices, if they should bend their efforts to gathering data along the lines suggested in the following list of fact studies. It was indicated by the civil service administrators among the round table members that civil service agencies would be glad to coöperate in making accessible sources of information, and would further be glad to utilize the results and conclusions of the investigations along the lines suggested below.

It was also agreed upon that the Bureau of Public Personnel Administration be requested to act as a central agency for the promotion of

studies, with the coöperation of a committee of three of the Conference. Professor Leonard D. White was made chairman of this committee, and Professor A. S. Faught and Mr. A. E. Garey were associated with him. It was proposed, finally, that the Assembly of Civil Service Commissioners be appraised of the content of the report of the round table and urged to coöperate in every possible way.

The following fact studies were proposed:

- (a) Methods of selection, rates of pay, turnover, method of separation, etc., of confidential clerks and secretaries and other employees appointed without examination under civil service rules;
- (b) Class of positions which are more exempt from examination under civil service rules by discretionary acts of the commission;
- (c) Sub-division of classes of positions or the consolidation of classes as a means of permitting particular names on an eligible list to be more easily reached, or as a means of securing greater competition, or for other purposes;
- (d) Percentage of provisional appointees who secure permanent appointments; nature of the tests given provisional appointees as compared with the tests conducted for permanent appointment; and methods (if any) used to secure advantages in competitive tests for provisional appointees;
- (e) Persons eligible for promotion tests who do, and those who do not, compete in such tests, with a statement of conclusions;
- (f) Actual rates of pay, conditions of service, and qualifications of applicants and incumbents of certain classes of positions to be specified by a committee of the Conference and a statement of conclusions;
- (g) Operation and effects of veterans' preference laws;
- (h) Formulation of standardized tests;
- (i) The various elements entering into the personal administration of law enforcement, including the police bureau, the detective bureau, court employees, probation officers, and employees of penal and corrective institutions, in coöperation with agencies investigating crime and law enforcement.

2. *Appraisal of Public Employment Situation.* On account of the interest of the majority of the members of the round table, more time and attention were devoted to the consideration of specific problems than to the more comprehensive question as to the ways and means of appraising the public employment situation with reference to standards that might, through the course of experience, become matters of

general agreement. The progress that has been made in the public health field in the direction of conventional standards of appraisal was discussed as illustrating the type of investigation proposed.

The problem raised by the round table attached to the Conference held in Chicago concerning the difficulty of making comparisons between the civil service commissions operating under different laws was met by the proposal that the commissions themselves be not appraised as such, but rather that the *whole employment situation* be appraised. If certain shortcomings exist, either because of a faulty law or because of the inactivity of the civil service commission, it will be established that the faulty conditions exist. This obviously is the initial and basic step in any appraisal. The analysis of causes may, in so far as the appraisal itself is concerned, be disregarded.

Some attention was given to a consideration of those features in an appraisal about whose significance there would be general agreement. On account of lack of time, not all important features were covered, and no conclusion was reached as to their relative importance.

The discussion of the features that might enter into the composition of a schedule centered about the list of topics proposed at the first conference held in Madison and contained in the report of this conference in Volume XVIII, No. 1, of the Review.

W. E. MOSHER

ROUND TABLE ON POLITICAL PARTIES,
POLITICAL LABORATORIES; RESEARCH PROJECTS

1. *Scope of the Work Undertaken.* The round table was fortunate in having among its members a number of persons who have engaged actively in practical politics. These were: Herr Erkelenz, a member of the German Reichstag and president of the Democratic party; Herbert C. Pell, chairman of the New York state democratic committee; and Mrs. Livermore of the Republican national committee. The suggestions, as well as the points of view, of these practical political workers were most valuable.

The discussions of the round table centered upon the answers to three questions proposed at the opening session: (1) What is the material for research in party politics? (2) What are some important subjects for inquiry? (3) What are the methods best suited for the study of these projects? The round table on political parties was new this year. Hence, the answer to (3) was deferred until adequate

attention had been given to (1) and (2). Except for the fact that methods were considered in connection with each project as it was suggested, the round table deferred consideration of method until its next meeting.

2. *The Desirability of Political Laboratories.* In connection with the materials for political research, the suggestion was made by Professor Merriam, who was present at some of the sessions of the round table, that because of the fact that the study of politics is perhaps in the pre-scientific age, much attention must be given to the actual discovery and collection of materials which may be useful for subsequent scientific study. This, according to Professor Merriam, is part of the process through which all developing sciences have passed. Consequently, every effort should be made by those interested in the science of politics to gather the raw material concerning political parties and their activities.

It appeared to the round table that colleges should establish, wherever possible, "laboratories" for the study of politics. Such a laboratory should include: (1) a storehouse of material for use in special studies and investigations; (2) facilities for collecting material needed for studies under way; and (3) a place where students working in courses in government can find adequately assembled the materials they need to work with, and where they can work under favorable conditions.

The distinctive thing about such a device is that it is primarily a "politics" laboratory. It is not intended that it shall become the traditional governmental research library, of which there are now several in the United States. Political material such as election statistics, political platforms, campaign publications, and election laws are to be collected, rather than merely government reports and documents. "Politics" should come first and "administration" second.

3. *Materials for Political Research that Should be Collected.* A wide variety of things should be collected of which the following are suggestive:

- (1) campaign literature, handbooks, party platforms of leading parties and candidates in national, state and local politics;
- (2) ballots of all states and of many cities;
- (3) election statistics from secretaries of state throughout the states;
- (4) election laws from all states;
- (5) bulletins, etc., of various organizations representing special interests and points of view, business, farming, labor, and civic;
- (6) Congressional records and digests, committee hearings and reports;

- (7) certain magazines and newspapers, to be taken and clipped or filed;
- (8) films recording important political events, phonographic records of political speeches, even radio equipment for gathering current political discussion;
- (9) unpublished letters of political leaders (if correspondence of the great is not available, then of the near-great in politics—every scrap of material that will help students of politics and history to understand current politics);
- (10) the masses of correspondence that legislators receive from constituents, which now is in the main destroyed;
- (11) biographical material concerning party leaders collected and written by students. In this last connection it will appear evident that studies of leaders in politics such as Professor Merriam has so wisely encouraged is in reality the massing of the material upon which scientific progress is based.

4. *Suggested Projects for Research.* Possible projects for research were suggested by all of the members of the round table. The following are typical and, in the opinion of the chairman, the most valuable of those mentioned:

- (a) Political activities of the negro population in northern cities. It was suggested that a number of northern cities be selected and that two or three precincts predominantly negro be studied with a view to determining the variations in the election results in these precincts, and that some effort be made to examine the methods followed by political parties in seeking the votes of these citizens. The suggestion was made that it might be found that the negro in the North shows a tendency to follow the political inclinations of the city itself, rather than the traditional Republican affiliation.
- (b) Non-voting. Extensions and continuations of the study undertaken by Merriam and Gosnell in Chicago ought to be made in various cities.
- (c) The effect of absent-voting laws upon non-voting.
- (d) The charitable activities of party organizations. It was suggested that by means of coöperation with district professional charity workers and with party leaders, an attempt be made to evaluate the much discussed and probably much over-rated charitable activities of political parties. It was suggested that case studies might reveal rather questionable results from such activities conducted by party workers.
- (e) The party affiliations of naturalized citizens.

- (f) The influence of various election methods. Mr. Herbert Pell described a possible study of the real effects of political propaganda in a selected number of election districts. Such a study would involve the use in each of the districts of a different type of political activity, and by means of a comparison of results with other elections some idea of the value of these methods could be secured.
- (g) The influence of the foreign-born voter in national elections in the Northwest.
- (h) The work of the central offices of British parties.
- (i) Party leadership. A study of party leadership, not only by an examination of the characteristics of successful politicians but from investigation of persons who are defeated for aldermanic offices. Thus a study might be made of "non-leaders."
- (j) The results of proportional representation. There have now been a sufficient number of elections under this system in cities in the United States and in other election areas in other countries to make possible a very valuable determination of the various claims made in its behalf.
- (k) A study of the political technique of the national committee. It was suggested that the work of the Republican organization of 1920 was really so effective and so perfect an example of political technique that a study should be made of what was done.

It was the opinion of the members of the round table that it would be very valuable to bring together substantially the same group a year hence, to continue a consideration of these and other topics and to compare reports of specific pieces of research attempted during the year.

RAYMOND MOLEY

ROUND TABLE ON NOMINATING METHODS

THE DEVELOPMENT OF A TECHNIQUE FOR TESTING THE
USEFULNESS OF A NOMINATING METHOD

1. *Nature of the Problem.* Beginning where it left off at the close of the Second Conference on the Science of Politics, the round table on nominating methods expected to complete its examination of the various "tests" suggested at the previous Conferences. It may be recalled that the so-called "tests" were the proposed methods of discovering for a given nominating system its effects along several different lines. It was

proposed to devise a technique for applying these tests objectively, or at any rate so as to eliminate the subjective as far as possible. With this in view, the various tests had been assigned to the several members of the round table for careful examination and report. At the Third Conference these reports were presented and considered.

In general, it is obvious that the problem which the round table had set itself was to discover if there existed a series of relationships between the existence of a given nominating system and the occurrence of a number of political phenomena. If such relationships existed, was there a method of identifying them and of stating them with confidence? Particularly it was desired to devise methods of stating relationships quantitatively, or in such a way as to restrict opinion, prejudice, and other personal reactions as narrowly as possible. For example, it was assumed that probably the direct primary had an effect on the party system different from that produced by the convention system of nomination. Was it possible to establish the fact of such relationship, and by what method could the character of the effect or effects produced respectively by the two systems be indicated objectively, so as to be capable of valid comparison? Suppose it were believed that it is better that political parties should be capable of being held responsible for the conduct of government. Is there any way of measuring "party responsibility" so as to tell when more or less of it is obtained; or is there any way, indeed, of identifying it so that its presence or absence can be determined? And is there any way of conclusively relating this presence or absence, or greater or less degree, of party responsibility to the presence or absence of one or another nominating method?

2. *Difficulty of Determining Quantitative Tests.* Early in its work the round table perceived that some of its tests could be dealt with on a quantitative basis. Notably was this true of the cost of nominating methods. Here the thing to be discovered was itself a quantity, *i. e.*, a sum of money, for the measurement and comparison of which methods have long existed. With some other tests, *e. g.*, "continuity in office," quantitative data can be secured, but methods of treating it statistically have to be devised. The chief problem in the use of these tests was getting the information. In the case of other tests "reducible" data probably do not exist, *e. g.*, the effect on corruption. About the most that can be discovered is the presence or absence of a given phenomenon. Here the problem is chiefly that of identifying the nominating system as the determining factor. Of course this problem is present in the application of all the tests, but it offers greater diffi-

culties with some than with others. Obviously each one of the criteria is a variable result caused by an unknown number of factors, many of which are themselves variable. The nominating method is a factor which is either present or absent; if all the other factors were either simply present or absent it might be possible to determine the effect due to the nominating method. But where you have also the same kind of factors present in all situations, but differing quantitatively in some way, the problem of measuring the effect due to a change in methods of nomination takes on almost limitless complexity.

In the application of all the tests a difficult question in comparing two methods arises in determining whether it is better to study the same jurisdiction under different systems or two different jurisdictions with different systems. In the former case, difficulties arise from the different conditions due to difference in periods of time; in the latter, the embarrassment is to find two jurisdictions approximately the same in every respect but the one to be studied.

3. *Costs of Nominations Under Different Methods.* Nevertheless the round table has had the courage to face all of these problems and to attack many of them. Its most notable success was in the realm of the more easily workable data. The outline of a method of studying costs of nomination worked out by Dr. C. A. Berdahl (which had been mimeographed and sent to all members of the Second Conference) was considered and criticised and finally accepted. It is regarded as a useful guide for anyone interested in studying this particular phase of nominations. A number of suggestions received through correspondence were incorporated in the outline, and it is now regarded as finished, as far as the round table is concerned. It remains to apply the methods suggested to specific situations.

4. *Continuity in Office Under Different Systems of Nomination.* The relation between nominating methods and "continuity in office" was discussed by Dr. Waldo Schumacher, who had compared the convention and direct primary in Wisconsin. The method was to discover the percentage of reelections in the total number of elections to certain selected state and county offices. The study in Wisconsin showed a greater percentage of reelections under the direct primary. It was suggested that party management, the impetus of presidential campaigns, and changes in campaign methods and in voting habits of citizens might also be contributing factors in this result. If the influence of the nominating system is to be isolated, then each election in the whole series under study must be examined separately to see whether

other factors may not account for the result attained. Such a thing as "voting habits" might be studied over a period of years where there is no change in election methods, and its influence thus established. This particular test is still in Dr. Schumacher's hands for refinement and definitive statement.

5. *Majority Rule and Popular Interest as Affected by Different Nominating Methods.* Miss Louise Overacker presented a report on the relation of nominating methods to majority rule. Some of the questions raised were: What is meant by majority rule in this case? If it is majority control of party nomination, what constitutes a "party"? What territorial basis should be used? Almost any answer raised new difficulties. All of these Miss Overacker is to consider and attempt to solve for the round table during the coming year.

A report on the effect of nominating methods on public interest was presented by Miss Alma Sickler. Here the chief problem was in discovering evidence of more or less public interest. Is the size of the vote evidence? Or the number of public meetings? Or the amount of newspaper space? And in any case how can the influence of other factors be determined? Miss Sickler's memorandum is in the hands of the members of the round table for study and criticism.

6. *Miscellaneous Matters.* One session of the round table was held jointly with the round table on political parties to discuss some problems of campaign methods presented by Mr. H. C. Pell, Jr., chairman of the Democratic state central committee of New York. Another session was devoted to a criticism of a proposal by Dr. B. F. Wooding for an entire reform of nomination and election methods. The value of these two sessions to the members was that the former revealed the unscientific character of the methods of the practical politician, and that the latter revealed the inapplicability of the technique being worked out by the round table in passing judgment on nominating devices which have never been actually used.

Some time was devoted to hearing from Mr. J. T. Salter an account of his study of non-partisan nominations and elections in Pennsylvania cities of the third class. Mr. Salter's experience brought out some of the difficulties in the use of the questionnaire, the personal interview, and newspaper files as sources of information.

The round table adjourned without having finished its work and without having determined whether to recommend its own continuation. An informal decision was made to have the chairman devote his seminar at Stanford to a more intensive study of the tests and formulate a

complete report by the beginning of the year. The members of the round table, with this report before them, could then determine whether another session was called for. It was agreed also that the tests should be actually tried to see if they are workable.

VICTOR J. WEST

ROUND TABLE ON LEGISLATION

DELEGATION OF LEGISLATIVE DISCRETION TO ADMINISTRATIVE
AGENCIES

The preliminary discussions of the round table early proved the necessity of reaching some agreement on the subdivisions of the major topic, and on the establishment of categories into which powers of administrative agencies could be classified, by means of which it would be possible to segregate the various elements of the problem for intelligent comparison and analysis.

1. *Proposed Major Subdivision of the Field.* The first tentative agreement reached was a division of the functions of government into (a) control and (b) service. The distinction was based on the hypothesis that government's relation to the individual, when it is providing primarily a service and regulating the machinery for such service, is different from that which it sustains when exercising control over the individual in his sphere of rights. For much of this analysis and the suggestion of terms and methods of classification the round table was indebted to Professor Ernst Freund, who presented the analysis of the problem which had been made preparatory to the work of the committee of the Commonwealth Fund, of which he is chairman.

2. *Delegation of Control Over Individual Rights.* Administrative power was divided into two categories—determinative and non-determinative—the latter consisting of (a) administrative ruling power, applicable to individual cases, and (b) general rule-making or regulation power. In order to limit the field still further, with a view to the consideration of "control," the latter was practically eliminated temporarily from discussion. Enforcement powers were also eliminated, excluding inspection which requires no ruling, and prosecuting power where recourse is to the court and not to an administrative agency. The administrative ruling power was further subdivided into (a) enabling power, such as the issuance of licenses and permits, and (b) directing power, *i. e.*, the issuance of administrative orders.

3. *Classification of Subjects for Unification of Investigation.* It was agreed that research, to be comparative, must be undertaken on some common basis, and the following items were suggested as covering the field: (a) public utilities, (b) merchant marine, (c) banking, (d) insurance, (e) trade, (f) labor, (g) professions, (h) education, religion, and political action, (i) health, (j) safety, (k) morals, (l) personal status, (m) use of land, and (n) revenue.

4. *Test Suggested as to Nature of Power Delegated.* The test suggested to determine whether a delegation was one of rule-making or of ruling power was that the former could be exercised directly by the legislature, the question of delegation to a board being one of expediency, while ruling power, applicable to individual cases, could not be exercised directly by the legislature.

5. *Grades or Degrees of Discretion.* An attempt was made to distinguish between varying degrees or grades of discretion as follows: (a) reserved discretion, which presumes regularity, but also a necessity for an occasional veto; (b) relaxing discretion, when a dispensing power is exercised, relaxing the rigor of the law, as in extension of time; and (c) selective discretion, involving preference or choice on the part of the officer, as in the case of appointments. Categories of discretion were suggested as involving: (a) expediency, (b) fitness, (c) fairness, and (d) conformity. In attempting to distinguish between discretion and purely ministerial power, it was suggested that there were two tests as to when discretion was involved: (a) the presentation of an issue and (b) the grade of difficulty involved. It was felt that further research applying the distinctions made above would be necessary before definite agreement could be reached as to their utility. In the discussion, of course, detailed illustrations were given which cannot be incorporated in a brief report.

6. *Does Discretion Tend to Become Non-Discretion?* The round table sought frequently to arrive at some conclusion concerning present tendencies under the various categories and classifications agreed upon, but, was confronted at nearly every turn with insufficient data or material not reduced to comparable basis. Without prejudicing the formal report of his committee, to be published later, Professor Freund expressed the conviction that, in the field of control of individual rights, it is possible to trace steady progress towards non-discretion. It was the recommendation of the round table that numerous minor monographs based upon the distinctions outlined above, and following the general procedure of the Commonwealth Fund committee, would prove

fruitful in testing not only such conclusions as that report may reach, but also the value of the distinctions made, and of the classifications and categories utilized. Such monographs would be primarily tests of the validity of method. More definite suggestions as to research projects were considered under the second main subdivision.

7. *Delegation Involving Governmental Services.* It was generally agreed that the approach to the problem was through a study of the statutory material, analyzing statutory phrases and intent as well as the mere statement of delegation of powers, and inquiring into the actual practice of departments, under each of the fourteen heads suggested above in each state or jurisdiction. It was further agreed that a valuable source of material might be found in the reports and proceedings of the national organizations of administrative officials, such as the meeting of the Civil Service Commissioners, the Public Utilities Association, etc.

The round table was confronted with an insufficiency of information, and the immediate problem appeared to be the study of public administration to determine existing facts and tendencies before further suggestions could be made concerning legislative principles or policies. In fact, the round table this year was concerned, on the whole, more with the administrative law and public administration aspects of the subject than with legislation.

8. *Suggested Investigations.* To prepare adequate data for later compilation and analysis the following approaches were suggested:

(a) numerous monographs on the history of particular boards and commissions; (b) comparative studies of similar boards in various jurisdictions; (c) comparisons of states or other jurisdictions in which power has been delegated to an administrative agency on a particular subject, with other jurisdictions in which the legislature has retained such power itself, to ascertain if possible the relative effectiveness of the two systems; (d) the listing of agencies having national organizations and the assignment of each to individuals for study and analysis.

9. *Arbitrariness.* The round table spent considerable time discussing the objections to delegation of legislative power. The chief one seemed to be that such delegation frequently substitutes arbitrariness or uncontrollable qualities for legal principles and rules. Various tests of arbitrariness were suggested, without agreement: (a) the degree of removal of the administrative agency from popular control, as it affects public opinion as to the arbitrariness of its rulings; (b) the composition of such agencies; an analysis of their training and fitness; the extent to which discretion is delegated to an individual, ex-officio board, special

commission, etc.; (c) the extent to which use is made of expert services by such agencies, and comparison with such use of expert advice by legislatures; (d) the question of judicial review and mandamus; in this case it was suggested that the extent to which courts have affirmed or overruled the decisions of administrative agencies would be a definite test; (e) the nature of the procedure and safeguards provided by law or instituted in practice by the administrative agencies themselves.

10. *Standardization of Administrative Practice and Decisions.* It was agreed that one of the major purposes of any comparative investigation should be to determine to what extent, in what fields, and by what methods attempt has been made to standardize the exercise of the power delegated. It was suggested that such investigations might disclose the need for something similar to the British Rules Publication Act of 1893, in order to standardize the procedure and practice of all agencies under similar general conditions. Information was not available as to whether any such standardization was now apparent. Research should seek to establish whether there are any commonly practiced, uniform rules of procedure, and what procedure is susceptible of standardization. Moreover, the problem of standardization involves the far more important problem of standardization of the principles applied by different agencies in arriving at decisions. It was thought that the method of conducting such investigations was sufficiently clear without statement of definite projects.

11. *Effect of Consolidation Upon Delegation.* As a special problem in the field, worthy of particular study, it was suggested that investigation be made to determine whether administrative consolidation in state governments has tended to increase the delegation of discretion. Mr. Crawford, reporting on this subject, disclosed sufficient differences of opinion to indicate that the topic offers opportunities. It was suggested that studies be made of such states as Illinois, Nebraska, and Washington, to determine the degree of discretion delegated under the three administrative codes. This would involve a study and comparison of legislation and delegation of discretion before and after the adoption of the codes. It would necessitate studies of other states which have not adopted such codes, to determine whether or not it is the consolidation that is responsible for the result.

The round table was particularly indebted to Professor Freund for the exhaustive analysis presented by him as a basis for much of the discussion of the session, and to Miss Helen M. Rocca for her continued faithful services as secretary.

FREDERIC H. GUILD.

ROUND TABLE ON PUBLIC FINANCE

STATE SUPERVISION OF LOCAL FINANCE

1. *Scope of the Work Undertaken.* At the Chicago Conference of 1924, the round table on public finance began the consideration of a definite topic, namely, "State Supervision of Local Finance." A working outline was prepared dealing with such matters as the purposes, objects, and methods of supervision, and tentative standards for judging the methods of supervision, in regard to budget procedure and financial information. It was agreed that the round table of the following year should continue the same topic and should set for itself two main objectives: (1) to test the various standards proposed by means of studies of existing systems of supervision in particular states, to be made by members of the round table for report to the 1925 meeting; (2) to develop additional standards of procedure for those phases of the subject which the 1924 group had not been able to consider in detail.

The sessions of this round table at the New York conference carried out part of this program, considering several reports of studies by members of the group. But, partly owing to changes of personnel and partly to lack of time, progress in developing further the methods and standards of procedure was limited.

2. *Tax Limitation in Ohio.* Dr. Raymond C. Atkinson, of Columbia University, presented the results of his study of the policy of tax limitation in Ohio and suggested methods of appraising the results of such a policy. The following outline indicates the nature of these methods as applied to cities. With adaptations, the same methods may be employed in studying other objects and methods of state supervision.

Methods of Testing the Effects of Tax Limitation.

(1) Effect upon municipal revenue.

- a. Compare periods preceding and following the introduction of tax limitation as to the degree to which property is assessed at less than the full legal rate.
- b. Compare the same periods as to growth of per capita revenue for current operating purposes from (1) the general property tax; (2) all sources other than utility earnings.
- c. What new forms of revenue were introduced after the tax limit was established? What was the relative fiscal importance of these new forms?
- d. Compare per capita operating revenues of cities affected by

tax limitation with same for cities of comparable size in other parts of the country, as to (1) amount; (2) rate of increase.

(2) Effect upon municipal expenditure.

- a. Effect on per capita expenditure for all operating purposes other than utilities.

- (1) Compare growth of per capita expenditures in periods preceding and following the introduction of tax limitation.

- (2) Compare representative cities affected by tax limitation and cities of similar size in other parts of the country.

- b. Compare cities affected by tax limitation with cities of similar size in other parts of the country as to effect on per capita expenditures for specific classes of services such as police, health, etc. (The aim is to discover the kinds of services which are most affected by a policy of stringent tax limitation.)

(3) Effect upon municipal indebtedness.

- a. Operating deficits. Determine the annual excess or shortage of operating revenues over operating expenditures for period before and after the introduction of tax limitation.

- b. Floating debt. Determine volume of floating debt at end of each fiscal year for several years preceding and following the introduction of tax limitation.

- c. Bonding policy.

- (1) Issuance of deficiency bonds. Analyze indebtedness to determine the amount of deficiency bonds annually issued and the ratio of deficiency bonds to total bonded debt.

- (2) Issuance of bonds for current operating purposes or for short-lived equipment. Similar analysis.

- (3) Term for which bonds are issued. Is there any tendency to issue long term bonds in order to reduce sinking fund levies?

- d. Sinking funds. If analyses of the condition of sinking funds have been made in any cities, they will probably be useful in showing whether debt service has been neglected to bolster up operating funds.

Dr. Atkinson also indicated that it would be desirable to determine as far as possible the effect of tax limitation upon the quality of municipal services and the standards of financial administration, even though such things were much less susceptible of precise measurement. Surveys of particular cities made by bureaus of municipal research and by other

qualified agencies or individuals may afford some evidence as to changes in the quality of municipal services due to the imposition of tax limits.

3. *Tax Limitation in Illinois.* The subject of tax limitation was further continued by the director, Professor Fairlie of the University of Illinois, who discussed briefly the history and results of tax limitations in Illinois. It was noted that while in Ohio the tax limits had been effective for a time, though later modified, in Illinois, over a longer period, the tax limits had been frequently changed and were much less effective.

It was the opinion of the round table that, in general, statutory tax limitations were not justified by actual experience and that other forms of central financial control were preferable. In connection with this topic, the question of assessments was brought up and considered. Mr. Cornick, of the National Institute of Public Administration, outlined the present system of assessments in New York and the efforts of the New York state tax commission to deal with the problem of state supervision thereof.

4. *State Control of Local Finance in Indiana.* A brief report on this subject, prepared by Professor F. G. Bates of Indiana University, was read, in his absence, by the director. This report dealt chiefly with two main forms of control: (1) the approval or disapproval of local budgets and bond issues by the state board of tax commissioners; and (2) the department of accounts and its control over local contracts, especially expenditures for public works. Much interest was expressed in this experiment in administrative supervision, and it was agreed that further study of the results was especially desirable.

5. *State Supervision of Local Finance in New Jersey.* This was reported on by Dr. Roger H. Wells, of Bryn Mawr College. This report covered four main fields of supervision: (1) assessments, (2) debts, (3) budgets, and (4) auditing, accounting, and financial reporting. In concluding, an attempt was made to show the extent to which the New Jersey plan accomplished the five purposes of state supervision as outlined by the 1924 round table, using the standards suggested for judging the methods of supervision. These purposes, with the appropriate comments for New Jersey, are as follows:

- (1) To collect and publish information and statistical data so that reliable knowledge of local conditions might be available both to the local community and to the state government, on the basis of which further action might be determined. The legal provisions of the New Jersey scheme are adequate to accomplish this aim; however, owing to the small personnel of the state

supervising agencies and the small appropriations made by the legislature, the purpose is only partially realized.

- (2) To discover and prevent defalcations, fraud, and corruption, and to enforce other generally established legal requirements for honesty in public administration. If conditions now are compared with those prior to the introduction of administrative supervision, it is apparent that this purpose is largely accomplished.
- (3) To enforce minimum standards of record-keeping and other financial procedure necessary for effective local government. The standards of financial procedure embodied in the New Jersey legislation are sufficient to carry out this purpose; nevertheless, the supervising agencies have preferred to "make haste slowly," relying more upon education and advice than insisting upon all requirements which the laws permit the central agencies to impose.¹
- (4) To promote efficiency in the methods of local self-government. This is not one of the major purposes of the New Jersey system. If greater efficiency is attained in a particular instance, such a result is at most only an indirect result of state supervision. For example, if the publicity features of the New Jersey legislation help to produce a more enlightened local opinion, this opinion in turn may produce a more efficient local government.
- (5) To control the policy of local governments, with particular reference to the better distribution of public expenditures and burdens. This aim is beyond the scope of the New Jersey plan as it now exists, although the present governor has, on several occasions, recommended legislation with this purpose.

In the discussion on this report, useful information and comment were given by Mr. Cornick, from his knowledge of local conditions.

6. *Budget Procedure.* The round table next took up the question of budget procedure. H. J. Reber, of Griffenhagen and Associates, presented 'An Outline Review of the Problems of Governmental Budgetary Control.' The topic was discussed, not from the standpoint of state supervision of local budgets, but from the standpoint of what was good budgetary practice, regardless of the unit of government involved. In order to have a fuller examination of this important subject, Mr. A. E.

¹ The above aims were recognized by the round table of last year as generally advisable, but the other purposes of state supervision of local finance were regarded as of a more debatable character.

Buck, of the National Institute of Public Administration, was invited to attend that session of the round table and to take part in the discussion. The chief points in Mr. Reber's paper may be summarized as follows:

- (1) Bases for classifying expenditures; adequate classification of accounts necessary in budget preparation.
 - (a) According to the purpose of the expenditure,—what end is served? "Purpose" may be subdivided into (1) a "functional" classification and (2) a "character" classification, the latter being itemized into operation, repairs, capital outlay, etc.
 - (b) According to the nature of the expenditure,—what thing is acquired? A "nature" classification would involve a system of heads under which items are all enumerated by name, with quantities and unit costs shown where possible. The prevailing "object of expenditure" classification is objectionable because confused with "purpose."
 - (c) According to the origin of the money,—what fund is to be expended?
- (2) Preliminary expenditure estimating by department heads. Existing budget procedure does not place enough emphasis upon including information to support the estimates. This information should be carried in footnotes on the budget estimate forms and should include a brief statement of the work done by each unit, a list of positions with rates of pay, explanations of increases or decreases over previous years, etc.
- (3) Preliminary revenue estimating. Great practical importance of having some qualified officer assume fully the work of preliminary revenue estimating. No aspect of budget procedure is more generally neglected at present.
- (4) Compilation of estimates by budget staff.
- (5) Executive or commission review. Before submitting the budget to the legislature, the authority responsible for planning the budget should hold a public hearing at which the chairmen of the financial committees of the legislature should be present and take part. The purposes of this hearing are: (a) to require the governor, mayor, or budget authority to become thoroughly familiar with the compiled estimates; (b) to give the public a chance to be heard on the budget before as well as after it goes to the legislature; and (c) to have the chief financial members of the legislature familiar with what is being done.

- (6) Reporting upon the estimates (to the legislature). Estimates should include full supporting information for the benefit of the legislature.
- (7) The appropriation bill: provisions for unforeseen requirements. (Mr. Reber favored the use of a central contingent fund, while Mr. Buck held that unforeseen requirements could be adequately cared for by a proper system of executive allotments.)
- (8) Reporting upon the budget. After final adoption by the legislature, a statement should be published showing what action was taken by the legislature and what changes were made.
- (9) Legislative review or audit at the end of the fiscal year to determine whether or not the budget as enacted by the legislature has been carried out.

Mr. Reber also submitted a series of detailed financial statements prepared for the Chicago board of education. But time did not permit an examination or discussion of them.

At the final meeting of the group, it was voted to continue the round table at the December meeting of the American Political Science Association. The general subject was to be the same, and several research topics were assigned or suggested for report at that time.

JOHN A. FAIRLIE

ROUND TABLE ON MUNICIPAL ADMINISTRATION
MUNICIPAL ADMINISTRATIVE SURVEYS

1. *Scope of Inquiry.* The 1925 round table in municipal administration confined itself to a consideration of municipal administrative surveys. During the past decade over a hundred surveys of municipal government have been made by the New York Bureau of Municipal Research, the Detroit Bureau of Governmental Research, the Philadelphia Bureau of Municipal Research, and the New York Institute for Public Service, and by individuals and staffs drawn from various universities or from private firms of accountants and efficiency engineers. It was the purpose of the round table to examine representative surveys critically with a view to appraising the methods used in these surveys and in the presentation of the reports of the surveys. Attention was therefore centered upon the technique of municipal surveys.

2. *Method of Attack.* As an approach to the problem, each member of the group who registered in advance was assigned to make an analysis and report on an individual survey. These assignments were given, with

one exception, to men who were personally acquainted with the city surveyed and the survey result. The following surveys were examined in this way: Charleston, S. C.; Cincinnati, O.; Newark, N. J.; Lower Merion Township, Pa.; San Francisco, Calif.; and certain phases of the 1925 Wisconsin Better Cities Contest survey. Finally, features of many other municipal and state surveys, such as Nevada, South Dakota, Kentucky, New Orleans, Camden, Chicago, and Tokyo were discussed.

In considering each survey, the report and other available information about it, and the government concerned, were examined to determine:

- (a) *The Purpose of the Survey and Report.* Was the study undertaken and the report prepared, primarily for the local officials, or for the local public, or for students of government generally? Was the purpose primarily to describe a condition, to secure better service, to reduce taxes, or to carry out a given reform?
- (b) *Scope of the Survey and Report.* Was the study limited to a single or to a few functions of government, or did it include most or all of the functions of a governmental unit within its jurisdictional limits? Did the study include a consideration of economic, sociological, and political factors which impinge upon the more directly governmental and administrative matters?
- (c) *Organization of the Survey Staff and its Methods of Work.* Was the staff composed of one or more individuals, and if of several, was there any active chief of staff directing and unifying the work of the group in accordance with a definite program? Were the members of the staff qualified primarily in general research, or were they specially experienced in their individual fields? Was the staff assembled for the particular study in hand, or was it an established and permanent organization? What was the relation of the staff to the governmental officials of the authority surveyed? Were there regular conferences during the course of the survey between the staff and the officials, both as individuals and as groups, and were there conferences within the staff itself? What was the relation of the staff to local citizen groups and to the press? Were the findings and suggestions freely discussed during the survey with the officials, with the public, and the press? Did the members of the staff rely upon previously prepared set questions in gathering their information, or did they depend upon their experience to guide them in bringing together the important facts? To what extent did the survey

staff formulate and use standards of administration as a basis for the appraisal of governmental organization and practices? Was a large amount of statistical material collected and analyzed, as in connection with the study of personnel, assessments, accrued benefits, purchasing costs, budget procedure, charities administration, elections, crimes, and the functioning of the courts? Were time and motion studies made of manual and clerical operations? Was the survey staff responsible for the immediate installation of any part of its recommendations? Did it take a direct part in administration to any degree? Was there any time or other limitation which conditioned the survey or report?

- (d) *Form of the Survey Report.* Was the preparation of the survey report under the control of a single editor who directed the writing of the report so as to produce a single unified whole, or were the reports of the individual staff members considered as separate documents, and the entire study as a group of essays? Is credit given to members of the survey staff? Does the report contain a table of contents, an index, and conveniently placed summaries? In the presentation of material is there a sharp separation of findings, criticisms and recommendations? Is the report set up along functional or organizational lines? Does the report contain detailed description of present organization and practices, or does it assume the knowledge of these facts on the part of the reader? Does it adduce considerable comparative material from previous years and from other cities? Are charts, maps, and diagrams used? To what extent are quantitative measures and standards of judgment set forth and explained? How long is the report? Is it printed? For what kind of a reader is the report written?
- (e) *The Influence of the Survey and the Report.* Have any of the recommendations been adopted? Have they influenced developments in organization or administrative practices? Are they the subjects of discussion and agitation? Has the survey report been used locally by the officials, citizen groups, or the press to educate local opinion in civic affairs? Has the report been used in other jurisdictions to advance practical reform? Has it been used by university professors and other students of government?
3. *Conclusions of the Round Table.* As a result of its examination of the selected reports and a discussion of the survey methods used in each

case as described by men who were intimately acquainted with the individual projects, the round table reached a number of definite major conclusions. These were:

- (a) There has been a marked advance in survey technique during the past decade.
- (b) It is not to be expected that all surveys and survey reports shall follow a fixed pattern. The individual study and report must be governed by the particular purpose in mind and must be controlled, further, by the peculiarities of the local situation. A survey must be focussed upon matters of major local importance, which will inevitably vary from city to city.
- (c) Nevertheless, it is to be hoped that those who are responsible for surveys will plan their work and their reports so that they may be of use in the cause of public education, because we live in a democracy; and to the advanced students of administration, because we are concerned with the advance of political science.
- (d) Surveys of local administration should be as all-inclusive as the situation permits. The greatest weakness of surveys thus far has been their failure to consider systematically economic, sociological, and political factors and to examine in detail the services rendered to the community by other public *and private* agencies.
- (e) Wherever the scope of the survey includes various activities of government, the work should be divided among specialists. The members of the survey staff should be definitely organized as an integrated team under the direction of a single man who is qualified to view the situation as a whole.
- (f) Whether an administrative survey is made for the responsible officials, or for a group of citizens, or in the interest of political science, it should not be undertaken without the real coöperation of the governmental officials. Full and free access to all records, and the opportunity to secure information and opinions directly from subordinates, should be insisted upon. Repeated conferences should be provided for between the survey staff and the responsible officials during the course of the survey to discuss findings, problems, and suggestions.
- (g) The more experienced surveyors do not use previously prepared set questions with which to check up every phase of their work, nor do they rely on formal set standards of administrative organization, practice, or result. While the development of

uniform standards of government organization and procedure is desirable, the limitations of their application to local conditions, legal and otherwise, are recognized.

- (h) The report as a whole, should be carefully edited by a single editor, so that the various reports of the specialists may be harmoniously united, duplication eliminated, and continuity maintained.
- (i) Individual credit cannot be given in a report prepared by an organized team. The list of the staff should appear as a part of each survey.
- (j) While the form of the survey report will differ under varying conditions, the report should always contain careful summaries, and either a detailed table of contents or an index.

4. *Project for Research.* The round table in municipal administration did not have the opportunity to devote any large amount of time to the consideration of projects for future study in the field of municipal surveys. The round table wishes to suggest, however, that the time has come for a more ambitious municipal survey than has heretofore been undertaken. The round table believes that a survey can be organized which will include studies of social and economic questions in a given locality together with studies of governmental, administrative, and political problems. Such a study will require a broader and more highly divided and specialized staff than has heretofore been brought together for any survey.

LUTHER GULICK

ROUND TABLE ON REGIONAL PLANNING

SOME REGIONAL PROBLEMS AND METHODS OF THEIR STUDY

1: *Development of "regions."* The rapid growth of urban centers; the springing up of satellite cities and other settlements on the borders or in the vicinity of populous districts; the development and extension of transportation facilities, including motor traffic highways, and the consequent increased mobility of the population; the setting up of other means of easy communication over large areas; the expectation, and in some cases, the assurance of economies to be gained through coöperation of two or more localities in providing common services required by all—these are a few of the many influences which in recent years have brought into existence a new political or administrative entity which is different from the precinct, ward, municipality, county, or state.

This entity has been called by various names; the word, however, which is being used more and more to describe it is the *region*. Whatever it is that makes a region, the existence of regional needs and the necessity of careful study of these needs are being increasingly recognized.

2. *Program of the Round Table.* In organizing the round table on regional planning it was realized that the political scientist would undoubtedly be interested chiefly in the problems of regional government, while the regional planner, since he is dealing primarily with questions relating to the use of land, would be interested only secondarily in questions of government. Nevertheless it was felt that there is a large area of common ground in these two spheres of interest and that the experience of the planner would have practical suggestions for the student of politics as to problems which sooner or later will require public consideration and action, and suggestions also as to methods of getting light upon these questions. Accordingly, five members of the staff of the Regional Plan of New York and its Environs were asked to lead five of the round table discussions, the sixth discussion was led by Dr. Ralph G. Hurlin, of the Russell Sage Foundation, and the seventh was led by Dr. Paul Studensky, who has recently begun a study of regional government for a committee on metropolitan areas appointed by the National Municipal League.

The subjects chosen for the round table discussions, and the leaders, were as follows: (1) regional planning in relation to public administration, Thomas Adams; (2) the adjustment of government to regional needs, Paul Studensky; (3) the influence of topography on government, Ernest P. Goodrich; (4) surveying recreation problems of a metropolitan area through sample districts, Lee F. Hanmer; (5) the local community —its place in city planning and its relation to political behavior, Clarence A. Perry; (6) securing coöperation of towns, municipal officials, and people within a region, Flavel Shurtleff; and (7) graphic analysis and presentation of facts in types of civic problems, Ralph G. Hurlin.

Space does not permit a full summary of the discussions. The most that may be attempted (particularly since one or more of the papers will be available in print later) is to set down a few of the points which received greatest attention and which are also illustrative of the specific matters given consideration. And, to follow instructions, these are grouped under (I) problems emerging in the field of regional coöperation and government, on the one hand, and (II) methods of dealing with public questions on a regional basis, on the other.

3. *Some Observations on Regional Problems.* From several points of view, attention was called to the fact that regional questions are not new, that this country has had a considerable experience already in setting up agencies to serve the needs of various units of this kind. Examples of such experience were grouped as follows:

- (1) *Water districts and boards*, e.g., North Jersey District Water Supply Commission, embracing about a dozen municipalities to which water is delivered.
- (2) *Sewerage districts and boards*, e.g., Sanitary District of Chicago, covering twice the area of Chicago.
- (3) *Park districts and boards* (concerned also with parkways and roads), e.g., Forest Preserve District (Cook County), Illinois.
- (4) *Transit districts and boards*, e.g., North Jersey Transit Commission (thus far studying only the common needs of seven or eight counties).
- (5) *Port districts and commissions*, e.g., the Port Authority of New York.
- (6) *Bridge and tunnel districts and commissions*, e.g., New York-New Jersey Tunnel Commission.
- (7) *Flood control districts*, e.g., Miami Conservancy District, embracing fifteen municipalities.
- (8) *Regional planning districts and boards*, e.g., St. Paul, Minn., Troy, N. Y., and Toledo, O.

While, as suggested above, regional questions are not altogether new, the amount of recorded experience regarding methods of studying questions of such geographical proportions was found to be very limited. Indeed, the group recognized from the beginning that as far as scientific study is concerned the field has been worked very little, and that a consideration of methods would probably have to be confined for the most part to primary and elementary procedures.

4. *How Define the Region.* Again, although the regional conception in general may be clear enough, attempts to define regions precisely run into difficulties. Just what does or should a region include? How shall we decide where it begins and where it ends? Dr. Studensky suggested that "as the term is used in political discussions, it is a territory which is neither a municipality, a county, or a state. It is frequently defined as one representing a certain social and economic unity and, I would add, possessed of certain governmental needs, but not coinciding with any of the political divisions mentioned. It is a

territory that may run across municipal, county, and state lines, embracing all or parts of several municipalities, counties, and states."

Mr. Adams would add physical considerations along with economic and social in defining regional boundaries; and for planning purposes he saw difficulties in any attempts at a rigid rule for all regions. "Topographical conditions and political boundaries," to quote him, "for a variety of technical reasons have a bearing on the selection of boundaries. . . . All the urban growth and systems of communication within commuting distance, or say within a radius of from forty to fifty miles from Manhattan, for example, have some economic or social relation to the mother city that has grown up on this island. The fact that this relation exists makes the area within this radius a suitable unit for planning its functional growth and means of communication; but some areas beyond fifty miles, such as the outer extremities of Long Island, are included for physical reasons."

Apparently no general principle can be laid down for defining regions. Many considerations must be taken into account. Until more light is had on the question, the definition will need to be made in accordance with some major interest or function to be performed, or with a group of them.

5. *Other Questions.* (1) Is it practicable, or desirable even if practicable, to make a political unit of an area that is suitable for regional planning? What has past experience in other types of regional endeavor to say on this? Serious drawbacks appear at once; how important are they?

(2) If practicable and desirable, what should be the form of government organized for it? What functions should it perform?

(3) Whether or not a governmental unit is set up for the region, are there important functions to be performed by non-governmental, citizen organizations in studying, recommending, testing, and experimenting in steps to promote the welfare of residents? What is the nature of the function, and how should it be related to other public and private agencies?

(4) What is the proper distribution of functions among neighborhood, municipal, county, and state governmental units? An answer to this will help in defining the functions of regional units.

(5) What are the best methods of administering the government of a regional unit? Through a board, a commission, or a single responsible official? How should it, or he, be selected? To whom responsible? What should be its relation to other bodies in the same areas? How should it

be financed? Should such governmental bodies confine themselves to the performance of a single service or function; or would there be gain in the performance of several?

Some of these are already being studied by Dr. Studensky as a part of his comprehensive investigation of regional government referred to above.

(6) In providing for the present and future recreation needs of a city, what facilities, in number and size of units, such as bathing beaches, parks, playgrounds, athletic fields, or camping reservations, should be provided locally and what provided outside of the neighborhood? How can the best distant sites be determined upon? Should one community or political unit bear the cost, or should several unite in it? If the latter, how shall the cost then be distributed?

(7) What are the factors to be considered in defining a neighborhood and in developing local consciousness and coöperation? Are major features of the regional plan, such as boulevards, motor highways, parkways, or railroad lines, uniting or dividing influences upon neighborhood life? How about rivers and river valleys? What part, if any, does size or width of these features play in finding an answer?

(8) How far should plans for the future of a region be based upon forecasts of future population trends? And in the present state of our knowledge of population tendencies, to what extent is it practicable to supplement or modify predictions obtained by the use of recently worked-out formulae with data showing economic, transportation, housing, recreation, and other trends? If practicable, how can it be done?

(9) To what extent is it desirable and practicable to modify the statistical record-keeping of various units of government so as to make data relating to economic and social conditions and trends more comparable and more useful for statistical purposes?

(10) To what extent is the decentralization of industry and other economic activities possible in a metropolitan center already very large and old? And, if possible, how can it best be promoted?

(11) The regional plan is merely a skeleton basis for the preparation and coördination of county, city, town, and village plans. It aims to produce the design in and through which the various smaller units which have certain interests in common can coöperate. How, then, can that coöperation be best secured? This question, obviously, touches on phases of the others; and this is true of others throughout the list.

The planning field bristles with interrogation points which have definite relation to matters of government and political action. These, it will be seen, are only a few of the many. Most of those cited are being studied in one form or another at the present time; but the extension and supplementing of current investigations should prove useful and is welcomed.

6. *Some Observations as to Methods.* Incidentally, it proved to be difficult in the round table discussions to draw a sharp line between questions requiring study and methods of study. Similarly here in attempting a summary a certain amount of overlapping seems inevitable. It should be added also that no significance attaches to the sequence of the items noted below; nor can they be regarded as in any sense an attempt to draw up an inclusive statement of regional survey methods. Some of the points which were stressed in the discussions are:

(1) Clear Definition of Problem. A first and obvious requirement in studying regional questions is a clear definition of the problem to be attacked. What precisely is the question upon which light is sought? Not what is a proposition to be proved; but what is it to which an answer is sought, pro or con?

(2) Historical as well as Contemporary Study Desirable. As already indicated, some at least of the problems of regional government are not new. In their essential features they have been emerging for forty years or more. This realization emphasized the importance of historical as well as contemporary studies of complex situations and experience in dealing with them.

(3) Fact-gathering. Facts are of basic importance. With full appreciation of the value of statistical material to be found in the public records and elsewhere, emphasis was also placed upon the value of data, not always of statistical character, obtained in field studies. Personal inspection of districts, observation of things in process, and interviewing persons in position to have information on conditions, not only add to the recorded facts but assist in interpreting what has been learned. These procedures were emphasized as indispensable aids in arriving at a sufficient understanding of complex situations.

(4) Sampling and Reconnoitres. Large areas such as the New York Region present serious difficulties in fact-gathering. On the one hand, we do not have the machinery with which to make a house-to-house canvass of the region, such as would be done by the official census. On the other hand, as already suggested, something is required beyond what can be done at an office desk. Somewhere between these two

extremes a method, practicable with the resources at our disposal, must be found. In some cases this can be done through the choice of sample districts for more or less intensive study. Certain recreational questions in New York City have been taken up in this way. Another method tried in the New York Region was the dividing of the whole area into six sectors, each to some extent a unit in itself, and the assigning of one unit each to six groups of investigators and planners. These studies were preliminary; and after quick field reconnoitres made by each, the findings were brought together in conference and discussed and made the basis of tentative conclusions.

(5) Community Participation and Coöperation. A further aid is to be discovered in bringing together the findings of studies already made in different subunits of the region and in stimulating planning and other civic bodies to make studies of their own localities. In addition to use of their findings locally by themselves, the materials which they assemble will contribute to the regional fund of information to be drawn upon in considering common interests in the whole area. In this connection a set or system of symbols which will make it possible for all localities to use the same language, so to speak, in representing their social, civic, and political data graphically seems desirable. An experiment in producing such a system is being made at present in the New York Region and the results will be available soon for any who are interested.

6. Neighborhood Life One of the Regional Objectives. Regional planning, while it has to do chiefly with the major elements of the region's design or pattern for future growth, must also take account of neighborhood life, its need and activities; that is to say, of life in the between-spaces. The plan at least should not set up barriers, divisions, or difficulties in such local units. One method by which the larger scheme or design can foster these interests is to study and plan ideal units on the assumption that local organizations can and will make their own adaptations; and another is to make the larger plan furnish the basis for natural neighborhoods in any extensions of the street system.

(7) Base Map. A necessary step in the study of a region is the preparation of a base map on which may later be put various kinds of data, social, economic, and political. The group found it difficult to agree as to just what should be included on such a map. It probably should show, in subordinated color: the main physical features, such as land and water areas, mountains, lowlands, and marshes; major political divisions; transportation lines; main thoroughfares; parks and cem-

eteries; the location of settled communities, and perhaps large buildings, especially industrial plants occupying large areas.

(8) Graphic Material. Throughout their inquiries investigators should be on the watch for graphic material which may be of use in presenting simply and accurately their pertinent facts and conclusions. Drawings, sketches and diagrams, old cuts, photographs, and illustrative incidents fall within this grouping. Also, both in study of conditions and in presenting findings and recommendations, the airplane map is becoming increasingly useful.

(9) Submission of Reports for Criticism and Staff Conferences. Analyzing community conditions and recommending action aimed at "control of the forces of the hour" are matters of considerable moment. Before going to the public with our facts, however carefully collected, and our proposals, however thoughtfully developed, they should be checked and criticised by those with special knowledge in the fields touched. This is one method of verifying hypotheses which, in the absence of statistical data applying to all parts of the region and of detailed field studies, will have to be used considerably. Indeed, even where statistical material is available such criticism provides a further and useful test of the interpretations of information gathered. In the same way, small advisory committees made up of persons having specialized or expert knowledge of particular problems under investigation are a further means of bringing knowledge of facts and experience to bear upon methods and results. Moreover, the staff conference in which the fund of experience and knowledge of specialists in economic, industrial, legal, social, civic, engineering, architectural, and other fields, as well as of specialists in city planning in general, is brought to bear upon facts, interpretations, conclusions, and plans is proving an invaluable aid.

(10) Effective Reporting of Findings. The regional survey and plan is, after all, an educational measure. It is a means of informing community and region upon community and regional matters, and thereby providing the raw materials for intelligent public opinion and a basis for considered action. The project should utilize as many channels of education as it finds open to it, among them being the daily and periodical press, graphic exhibit, and the printed pamphlet or book, as well as neighborhood study groups of many kinds.

SHELBY M. HARRISON

ROUND TABLE ON INTERNATIONAL ORGANIZATION
INTERNATIONAL COMMERCIAL DEVELOPMENT AND
THE CONSULAR SYSTEM

The discussions of this round table were begun by a general examination of the purposes and methods of the Conference on the Science of Politics as a whole. The leader made a brief statement on this subject and the members participated in a general discussion designed to clarify the objects to be sought and the program to be followed in subsequent sessions.

1. *Origins of International Commerce and Consular Service.* At the second meeting the members turned to the problem of the development of international commerce during the period from 1100 to 1300 A.D. and the origins and growth of the consular system during that period. A report on these topics was presented by Dr. Norman L. Hill, of Western Reserve University. Dr. Hill suggested that the following materials would be useful in any investigation of such a problem:

- (a) commercial treaties and consular conventions of the period;
- (b) contemporary codes of maritime law such as the *Consolato del Mare* and the *Valencian Regulations*;
- (c) municipal records of the period revealing data concerning contemporary commerce and consular organization and practice; and
- (d) historical treatises and monographs dealing with twelfth and thirteenth century commerce and consular service.

It was pointed out that the most valuable materials are likely to be found in group "c," but that such materials are the most difficult to obtain in anything like complete form.

Dr. Hill then outlined certain studies which should be made on the basis of these materials, as follows:

- (a) correlation of the establishment of new consular posts by cities with any increase in commercial activity by these cities;
- (b) calculation of the percentage of commercial cities sending and receiving consular representatives;
- (c) tabulation of cases of consular offices established at the instigation of commercial interests and comparison with any cases of offices established on other grounds;
- (d) correlation of the expansion of consular representation with non-commercial factors such as:

- a. Existence of strong or weak governments in sending or receiving states;
 - b. Existence of large or small numbers of travelers in certain (receiving) localities;
 - c. Development of legal study and practice in sending states;
- (e) correlation of commercial and non-commercial functions assigned to consuls in 1100-1300 A.D.

The fact was emphasized that these studies would be difficult to carry out because of lack of data, but it was said that if carried out they would throw light upon the character of the connection between commercial development and the development of consular service.

2. *Development of Nineteenth Century Commerce and Consular Service.* A second report was made on the relations between commercial development and the consular system during the nineteenth century, by Miss Katherine D. Klueter, of the University of Wisconsin. Use of the following materials was suggested:

- (a) government statistics of commercial activity; exports and imports by countries and ports;
- (b) government records of consular organization and practice as follows:
 - a. commercial treaties and consular conventions;
 - b. regulations governing consular service;
 - c. statutes relating to the same;
 - d. reports of consular representatives;
- (c) records of commercial houses and trade associations.

It was pointed out that the materials indicated for this period are very much more plentiful than for the period of origins, but attention was called to the fact that even for the nineteenth century commercial statistics are far from complete for any except six or seven of the most important commercial countries, and only for the most recent years. It was also indicated that most difficulty would be experienced in obtaining materials indicated in group "c."

Miss Klueter suggested the following studies to be made on the basis of the above materials:

- (a) correlation of commercial expansion and development of consular service by sending countries;
- (b) correlation of commercial activities and reception of foreign consular agents in given cities and ports;
- (c) correlation of commercial expansion with demands for consular representation from trade interests;

- (d) correlation of growth of trade with changes in duties assigned to consuls;
- (e) correlation of growth of trade and relations of consular and diplomatic agents.

It was felt that the two studies last named would shed most light upon the nature of the relation between commerce and consular practice, as well as upon the current problem of amalgamation of the consular and diplomatic services.

3. *Trading Consuls, Native Consuls, Career Consuls.* At this point attention was turned from purely scientific problems of historical development to certain practical problems of the art of consular service.

A third report was made, by Mr. Clyde Eagleton, of New York University, on trading consuls, native consuls, and career consuls. He indicated the following materials for use in dealing with these problems:

- (a) records of national departments of foreign affairs regarding:
 - a. consular personnel and classification.
 - b. work performed and efficiency ratings;
- (b) records of national departments of commerce;
- (c) reports on commercial activity and practice by commercial organizations (commercial houses, boards of trade, chambers of commerce, business leagues);
- (d) Data in response to questionnaires presented to exporters and importers.

It was pointed out here that only in recent years have efforts been made by the nations to employ efficiency ratings and other scientific methods of evaluating the work of consular representatives.

Mr. Eagleton suggested the following questions for investigation:

- (a) Relative effectiveness in trade promotion of trading, native, and career consuls;
- (b) Relative effectiveness in protection work;
- (c) Relative position as to immunities from local jurisdiction facilitating consular work;
- (d) relative amount of non-official activity (private business);
- (e) relative general competence (tested by errors made, instructions necessary, etc.);
- (f) relative availability (cost, number of applicants, etc.);
- (g) relative ease of control (response to instructions, insubordination, neglect of duty).

It was stated that preliminary results seem to suggest a higher degree of effectiveness for trading and native consuls than would perhaps be

expected. Further studies might indicate that current abandonment of these types of consuls was fundamentally unsound from this point of view.

4. *Proposed General Consular Convention.* A fourth report, or suggestion for study, was made by Mr. J. H. Toelle, formerly of the Harvard Law School, respecting a proposal for the conclusion of a general consular convention to replace the multitude of bilateral conventions under which consular representatives are exchanged among the nations at the present day. The following lines of investigation were suggested as likely to indicate the desirability or undesirability of such a step, the feasibility of a general consular convention, and the probable content of the same:

- (a) duplication in existing consular conventions;
- (b) delays in exchange of representation due to absence of consular conventions;
- (c) variations among existing consular conventions; resultant inconvenience to consuls, governments, merchants, and travellers;
- (d) problems in consular practice at present unsettled and not treated in same (*e. g.*, immunities);
- (e) growth of general conventions to replace bilateral agreements in other fields;
- (f) imitation among nations in consular organization and practice;
- (g) differences among consular conventions for application in European, Latin American, and Oriental countries.

It was felt that such studies would be feasible in spite of dearth of materials on questions "b" and "f." The other studies might be made almost wholly on the basis of the existing consular conventions, with notice, under question "d," of unsettled problems to which allusions are made by writers on international law and consular practice.

5. *Proposed Research Consultation Bureau.* In conclusion, the members discussed a question which had emerged from the consideration of the interrelation of economic, historical, and political factors in the problems of consular service. This was the question of the probable value and feasibility of a research consultation bureau in the field of political science. Such a bureau would consist of a central secretarial office under a director and clerks, and a panel of advisers made up of a psychologist, an economist, a logician, a statistician, a political scientist, an historian, a jurist, a geographer, and others if thought desirable. To this bureau any person—student or teacher—contemplating or carrying on a research undertaking could send a plan,

an outline, or a rough draft for reading and comment by all the advisers individually. The object would be to secure comments particularly from advisers accustomed to approach questions from angles quite foreign to that from which the person sending in the inquiry was approaching the subject. The advisers should be adequately compensated so as to require from them thorough scrutiny and comment on the projects and drafts submitted to them and a reasonable fee charged to clients to justify them in demanding such service. It was felt that research undertakings, and even student theses in educational institutions all over the country, ought to benefit greatly by such a service.

6. *General Review of Nature and Work of the Round Table.* Certain general statements should be made, in review, regarding the round table's activities.

Personnel has varied considerably during the three years in which it has been conducted by the present leader. As a result, it would have been necessary to renew each year the approach to the general problem of method under examination by the Conference, apart from any other factor in the situation.

If the membership had been identical each year, however, the present leader would have been inclined to reopen each year the central problem under examination in the Conference, and begin afresh on new topics on which to try out the general theory of the Conference, rather than to attempt to continue an examination of the same concrete topics a second or third year. For this there seem to him to be several good reasons.

In the first place, the object of the Conference and its component round tables being "the development of a scientific technique and methodology for political science," and to remedy the existing "lack of technique and method" in political study, it has seemed that the attainment of results in terms of answers to any of the substantive questions discussed in Conference is a false goal, quite beside the point, and possibly inimical to the true purpose of the Conference. Certain substantive questions are taken for consideration merely because it is impossible, or at least very hazardous, to attempt to study problems of technique and methodology in the abstract, or because methods—of study, of treatment, of representation—are always colored by the subject matter to which they are applied. This is unfortunate, and we should properly be able to study scientific method as such, quite forgetting for the time being our pet substantive problems of municipal administration or international practice. It is only because we are not

logicians, but political scientists, and because we will (or so we believe) be better able to consider and settle problems of method if we attempt this indirect connection with familiar and concrete subject matter, that we insist on our present approach. This most distinctly does not mean, therefore, that the substantive questions are the principal centers of interest. Quite the contrary, they and answers to them, are entirely beside the point.

Worse than that, the effort to obtain results in this direction is bound to defeat the purpose of the Conference. It would necessitate adherence to one or two substantive problems until they were settled, whereas changes of subject matter were (rightly) suggested in 1924 and again in 1925, and in no way other than by trying out projected methods of treatment on very different substantive topics can we get an adequate estimate of the value and utility of the method as such. Indeed, the object in view will best be served by trying out the method under investigation on as many and as widely different topics as possible.

In considering this aspect of the activities of the Conference certain additional inferences were drawn by the members of this group. Thus it appeared—to one person who was a member in 1923 but not in 1924, and to another who was a member in 1924 though not in 1923—that the discussions each year constituted to a large extent a repetition of materials or problems which had been gone over in the preceding year. This had been obvious to the leader, of course, already in 1924, and it became still more evident this year. The problem of method considered by itself is not inexhaustible. The result is that each year's discussions constitute merely additional practice in the use of a method, the main outlines and many of the details of which were substantially settled by the first meeting in 1923. It is impossible to avoid this situation without abandoning the principal object of the Conference and turning to subject matter instead of method. And it would be impossible to reach any important results in solving substantive problems in the time available during the annual meetings of the Conference. The outcome is that the meetings of the round table become properly training periods in method which may profitably be attended by a group of new members each year who will then return to work at leisure and employ the methods learned at the Conference as far as they find that possible.

It would be somewhat unfair and unsatisfactory to attempt to sum up here all the suggestions and conclusions reached by this round table during the past three years on the use of exact method in the study of

international organization. Furthermore the use of statistical methods and quantitative measurements in this field, where it proves feasible, could only itself be estimated at its true value by a comparison of the results reached by such methods with results obtained by what for convenience may be called the older philosophical method. This would constitute a distinct problem in itself, not yet studied by this group or capable of being studied here. But it may be stated briefly at this point, on the basis of the experience of the past three years, that it has seemed to members surprisingly practicable to adopt a strictly scientific method in the treatment of problems of international organization on a par with problems outside the fields of social science, that it has seemed possible to recognize and define the main features of that method, and that the results promise to be more reliable than any obtained by a less objective and critical mode of treatment. For a statement of the main features of the method to which reference has been made the reader is referred to the Report of Round Table VIII for the Conference of 1923, in this REVIEW, Volume XVIII, No. 1, at page 41.

PITMAN B. POTTER

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Professor William B. Munro has been appointed the first incumbent of the recently established Jonathan Trumbull professorship of American history and government at Harvard University. The endowment for the new chair was raised by a committee of prominent citizens of Connecticut.

Professor James W. Garner, of the University of Illinois, who fell ill at the opening of the academic year and underwent an operation at the Presbyterian Hospital in Chicago, was sufficiently recovered to return to his work in January.

Professor N. D. Harris, of Northwestern University, spent the first semester in Europe. His new volume, entitled *Europe and the East*, came from the press of Houghton, Mifflin and Company in January.

Dr. William P. Maddox, who recently received his B.A. at Oxford University, is an instructor in political science at the University of Oregon. His special field is international politics.

Dr. R. G. Campbell, of Washington and Lee University, spent the summer of 1925 in European travel and study.

Professor John H. Logan has resigned as a member of the faculty of Rutgers College and is now commissioner of education of New Jersey.

Mr. Charles W. Pipkin, formerly instructor in history at the Massachusetts Institute of Technology, and more recently Rhodes scholar at Exeter College, Oxford, has been appointed assistant professor of government at Louisiana State University.

Count Goblet d'Alviella, author of *La Répresentation Proportionnelle en Belgique* and a leader among the group of men who secured the adoption of proportional representation by Belgium for local and parliamentary elections in 1895 and 1899 respectively, died on September 9 as a result of injuries received in an automobile accident.

Mr. Henry K. Norton, formerly of Tsing-Hua College, Peking, lectured at the University of Wisconsin in November on the Peking conferences and the Far Eastern situation.

At the State University of Iowa, Dr. Kirk H. Porter has been advanced to an associate professorship and Dr. George F. Robeson to an assistant professorship; Dr. Forrest R. Black has been appointed as an associate professor; and the following have been made graduate assistants: Messrs. Harry Voltmer, Herman Trachsel, and Herbert Cook, and Miss Dorothy Schaffter.

The Third International Congress of the Administrative Sciences, which was to have been held in Paris in June, 1926, has been postponed for one year. It will meet in Paris in June, 1927.

The department of political science of the University of Minnesota coöperated with the Minnesota League of Women Voters in the second Institute of Government and Politics in that state, held November 16-20, 1925. Professor Quigley conducted a round table on "American Participation in International Organization"; Professors Anderson and Young, a round table on "The Expansion of Governmental Functions in the United States"; and Professor Lambie, a round table on "The Department of Administration and Finance." Special addresses were delivered by Dean Isidor Loeb, of the School of Commerce and Finance, Washington University, on "Federal Aid, its Nature, Extent, and Significance," and by Professor Anderson on "Taxation and Finance."

Mr. Walter S. Penfield, of Washington, D. C., delivered a series of five lectures at the University of Illinois, November 16-19. Three lectures on the general subject of the settlement of international disputes were delivered primarily for the students in international law. The other two, on the diplomatic relations of the United States with the Far East and with Latin America, were for the general public.

Dr. W. E. Mosher, director of the School of Citizenship and Public Affairs of Syracuse University, announces the appointment of the following staff for the summer session of 1926, when a series of courses, especially designed for secondary school teachers of the social sciences, is to be offered: Professor H. Duncan Hall, of the University of Sydney, New South Wales, will give courses in recent international politics and problems of the far east; Professor Richard H. Shryock, of Duke Uni-

versity, will present a teachers' course in government and a course in the introduction to the social sciences; and Dr. Benjamin B. Kendrick, of the University of North Carolina, Dr. H. D. Lasswell, of the University of Chicago, Professor C. F. Remer, of Williams College, Dr. Malcolm Willey, of Dartmouth College, and Dr. Floyd H. Allport, of Syracuse University, will offer appropriate courses in their special fields. The program is planned for teachers in service as well as graduate students planning to teach. The work is to be given in addition to a customary summer school curriculum, offered by the permanent staff of the university.

The Third Institute on the Harris Foundation will be held at the University of Chicago from June 29 to July 16. The conferences and lectures will be devoted to the subject of Mexico. Prominent representatives of the public and university life of Mexico, and of the United States departments of state, commerce, and labor, will participate. The departments of history and political science will offer courses dealing with phases of Mexican history and diplomacy. Regular courses in political science will be given by Professors A. R. Hatton, of Western Reserve University; A. B. Hall, of the University of Wisconsin; Raymond Moley, of Columbia University; and Graham H. Stuart, of Stanford University. Professor Quincy Wright, who has recently returned from a study of the mandate system in the Near East, will also be in residence. Correspondence pertaining to the Institute should be addressed to him.

The Sixth International Congress of Philosophy will be held at Harvard University September 13-17, 1926. One of the four divisions in which the session will be arranged is History of Philosophy; another is Theory of Values, which—among other topics—will deal with the philosophy of the state and of law. Information concerning the meeting can be obtained from the honorary secretary, Professor A. C. Armstrong, Wesleyan University.

An Institute on American Foreign Politics was held in Cincinnati, November 27-28 under the leadership of the Cincinnati Foreign Policy Association and with the assistance of other local societies. The Cincinnati Foreign Policy Association is one of a number of such organizations, more or less affiliated, whose purpose is to furnish information concerning, and encourage the frank discussion of, questions affecting American foreign policy. It holds monthly meetings which are addressed by American or foreign speakers of note. On the occasion mentioned

a two-day program was devoted to problems of the Far East, Europe, and Latin America. The speakers on Far Eastern topics were Dr. C. A. Edmonds, provost of Johns Hopkins University and former president of Canton Christian College; Dr. Kuo Pingwen, first president of the National Southeastern University at Nanking; Mr. Frederick Moore, of the Japanese Embassy, Washington, D. C.; Professor Harold Vinacke of Miami University; and Dr. Henry K. Norton. Participants in the consideration of European conditions were Professor Ernest M. Patterson, of the Wharton School of Finance and Commerce; Mlle. Louise Weiss, of Paris, France, editor of "L'Europe Nouvelle"; Mr. Stephen Bonsal, of Washington, D. C.; Dr. Benjamin B. Wallace, of the staff of the United States Tariff Commission; and Mr. James G. MacDonald, of New York, president of the Foreign Policy Association. The speakers on American policies in Latin America were Dr. S. G. Inman, of Columbia University; Professor Herbert Feis, of the University of Cincinnati; and Dr. Wallace.

Through a subvention of \$5,000 a year for three years the American Council of Learned Societies will be able to offer in 1926, 1927, and 1928 a number of small grants (not exceeding \$300) for the purpose of aiding scholars who require assistance in the conduct of projects of research in the humanistic and social sciences. Grants will be made only to mature scholars, experienced in scientific methods of research, and for specific purposes (travel, assistance, copies, photographs, appliances, etc.) in connection with definite projects. Grants will not be available for work the object of which is to fulfill the requirements for any academic degree, and, in general, preference will be given to applicants who are not eligible to benefit from special funds for research such as those maintained by certain universities. The awards for 1926 will be made by April 1 by the Committee on Aid to Research of the American Council of Learned Societies: *chairman*, Dean Guy Stanton Ford, University of Minnesota, Minneapolis, Minn.; Professor Edwin F. Gay, Harvard University; Professor Edwin Greenlaw, Johns Hopkins University; Dean Gordon J. Laing, University of Chicago, and Dean Frederick J. E. Woodbridge, Columbia University. Applications for grants in 1926 must be in the hands of the chairman of the committee by February 28. Scholars who wish to make such applications should secure the circular *Information to Applicants* from the chairman of the committee or from Dr. Waldo G. Leland, executive secretary, American Council of Learned Societies, 1133 Woodward Building, Washington, D. C.

The National Civic Federation has formed a department of political education whose object is announced to be to bring about more general participation in politics and more active voting by American citizens, with a view to lessening the danger of group government. Hon. Elihu Root is honorary chairman and Hon. Alton B. Parker chairman. Vice-chairmen are chiefly leaders in one or the other of the two principal parties, and there is an executive committee of fifty-five persons of prominence, including Professor Charles E. Merriam, of the University of Chicago. The initial meeting of the department was held in New York, January 28-29.

Annual Meeting of the American Political Science Association. The twenty-first annual meeting of the Association was held at Columbia University, New York, December 28-30, 1925. The registration was 144, and the number of members actually in attendance was probably not less than 175. The American Economic Association, American Sociological Society, American Statistical Association, and other organizations were in session at New York at the same time, and a joint session was held with each of the first two named. Members of the Association also participated in a dinner held by the American Association for Labor Legislation. A reception was tendered the members of the various associations by President Nicholas Murray Butler, of Columbia University. In accordance with a practice introduced at the Washington meeting of 1924, the three forenoons were devoted to sessions of eight round tables; and the general opinion seemed to be that this plan has justified itself and ought to be continued.

The program, as arranged by a committee of which Professor A. N. Holcombe was chairman, was as follows:

MONDAY, DECEMBER 28

9:30 A.M. Meeting of the Executive Council and Board of Editors.

10:00 A.M. Round Table Meetings.

1. *Administration of Criminal Justice*
Raymond Moley, Columbia University, director.
2. *Comparative Government*
Walter J. Shepard, Robert Brookings Graduate School of Economics and Government, director.
3. *International Law*
Charles Cheney Hyde, Columbia University, director.
4. *Municipal Administration*
Luther H. Gulick, National Institute of Public Administration, director.

5. *National Administration* (not actually held)
William F. Willoughby, Institute for Government Research, director.
6. *Political Parties*
P. Orman Ray, Northwestern University, director.
7. *Public Finance*
John A. Fairlie, University of Illinois, director.
8. *Public Opinion*
Robert D. Leigh, Williams College, director.

12:30 p.m. Subscription Luncheon.

Presiding officer: Charles E. Merriam, University of Chicago

Travel Talks

Robert C. Brooks, Swarthmore College, *French Campaign Methods*
Alzada Comstock, Mt. Holyoke College, *Women Members of European
Parliaments*

Herman G. James, University of Nebraska, *Brazilian Politics*

3:00 p.m. **Methods of Teaching Political Science: the Introductory Course.**

Presiding officer: Frank G. Bates, Indiana University

The Introductory Course in the State University

Miller McClintock, University of California (Southern Branch)

The Introductory Course in the Endowed Liberal Arts College

Russell M. Story, Pomona College

*Relations of the General Introductory Course to the Introductory Course in
Political Science*

John M. Gaus, University of Minnesota

Discussion by Albert B. Wolfe, Ohio State University.

8:00 p.m. **Presidential Addresses** (Joint Session with American Economic Association).

Presiding Officer: Hon. Frederic R. Coudert

War and Economics

Allyn A. Young, Harvard University, President of the American Economic Association

The Progress of Political Research

Charles E. Merriam, University of Chicago, President of the American Political Science Association

Reception of members of the Association by President Nicholas Murray Butler, Columbia University.

TUESDAY, DECEMBER 29

10:00 a.m. **Round Tables**, as on preceding day

12:00 m. Subscription Luncheon

Presiding Officer: Henry R. Spencer, Ohio State University

Political Theory and the British Commonwealth of Nations
Stephen Leacock, McGill University

Discussion by William Y. Elliott, Harvard University

2:00 P. M. **Regional Planning**, with special reference to New York City. (Joint Session with American Sociological Society.)

Presiding Officer: A. R. Hatton, Western Reserve University

Economic Aspects of Metropolitan Planning

Charles A. Beard, Training School for Public Service

The City Plan as a Means of Public Education of the Community
Shelby M. Harrison, Russell Sage Foundation, New York City

The Methods of Studying the Natural Areas of the City
Harvey W. Zorbaugh, Ohio Wesleyan University

4:30 P. M. **Annual Business Meeting** of the Association.

Presiding Officer: Charles E. Merriam, University of Chicago

Annual Reports of the Secretary-Treasurer and of the Managing Editor of the AMERICAN POLITICAL SCIENCE REVIEW. Reports of standing and special committees. Election of officers for 1926

8:00 P. M. **The Growth of International Law.**

Presiding Officer: B. F. Shambaugh, State University of Iowa

Is There a Law of War?

Col. Lucius H. Holt, U. S. Military Academy

The Judgments of International Courts

David D. Wallace, Wofford College

The Jurisdiction of the World Court

Charles G. Fenwick, Bryn Mawr College

Discussion by Charles E. Martin, University of Washington

WEDNESDAY, DECEMBER 30

10:00 A. M. **Round Tables**, as on preceding days

12:30 P.M. **Subscription Luncheon**

Presiding Officer: Thomas H. Reed, University of Michigan

Appraisal of the Conferences on the Science of Politics.

Martin L. Faust, University of Pittsburgh, *The Members' View-point*
Arnold B. Hall, University of Wisconsin, *The Directors' View-point*

3:00 P. M. **Problems of Method in Political Science.**

Presiding Officer: Charles G. Haines, University of California (Southern Branch)

The Subtle Art of Questionnairing

Harry A. Barth, University of Oklahoma

An Experiment in the Stimulation of Voting

Harold F. Gosnell, University of Chicago

Some Applications of Statistical Method to Political Science

Stuart A. Rice, Dartmouth College

The Relations between Geography and Politics

Ivan L. Pollock, University of Iowa

In the absence of Professor Leacock at the Tuesday luncheon, Professor William Y. Elliott, of Harvard University, discussed the subject assigned, and Professor Quincy Wright, of the University of Chicago, described the political situation in the mandated areas of the Near East which he had recently visited. At the Monday luncheon Professor A. I. Andrews, of Tufts College, substituted for Dean James with a travel talk on the Balkans.

The Executive Council and Board of Editors held an extended session on the opening day of the meeting, and the annual business meeting of the Association was held on the afternoon of the second day. The report of the Secretary-Treasurer on the membership and finances of the Association may be summarized as follows:

I. MEMBERSHIP

Accessions during the year.....	166
Resignations and cancellations.....	124
Net gain in membership.....	42
Applications for membership in hand.....	10
Total number of members paying annual dues.....	1511
Number of life members.....	52
Total membership.....	1563

Various methods employed to obtain new members were described, and the hope was expressed that members generally will see that persons who would be likely to be interested in the work of the Association are invited to join, or, at all events, that their names are reported to the secretary of the Association.

II. FINANCES

1. Balance, December 15, 1924.....	\$ 896.83
2. Receipts, December 15, 1924 to December 15, 1925	
Dues for 1923.....	\$ 20.00
Dues for 1924.....	236.00
Dues for 1925.....	4,386.96
Dues for 1926.....	715.74
Voluntary contributions for the support of the REVIEW....	672.10
Sale of publications.....	704.00

Advertising	292.75
Royalties.....	5.07
Payment by National Conference on the Science of Politics for publication of report and reprints.....	285.00
Miscellaneous.....	22.42
Total receipts.....	\$7,390.04
Total balance and receipts.....	8,286.37
3. Disbursements	
Bills paid for 1924.....	\$ 230.41
Williams & Wilkins Co., Baltimore (printing and distributing the REVIEW).....	5,179.03
Clerical and stenographic assistance, office of secretary-treasurer.....	397.95
Clerical and stenographic assistance, office of managing editor.....	445.35
Postage, office of secretary-treasurer.....	153.00
Stationery and printing.....	127.70
Express, freight, and drayage.....	391.64
Miscellaneous.....	300.03
Total disbursements.....	\$7,225.11
Balance December 15, 1925.....	1,061.26
4. Trust fund	
City of Madison, Wis., 5½ special street improvement bonds, purchased Feb. 11, 1924, due April 1, 1928, @ \$101.00 and accrued interest, total cost \$1,278.88, par value.....	\$1,200.00
On deposit Branch Bank of Wisconsin (Madison) December 15, 1924.....	241.96
Interest on bonds to April 1, 1925.....	66.00
Receipts from life members during 1925.....	30.00
Total (without accrued interest on bonds).....	\$1,537.96

Estimates were presented for the year 1926, showing balance and probable receipts aggregating \$8,621.51, disbursements aggregating \$6,350.00, and a balance December 15, 1926, of \$2,271.51 (without taking into account any increases of expenditure that might be authorized by the Executive Council).

The treasurer's accounts were audited by a committee consisting of Professors F. G. Bates and B. F. Shambaugh and were reported complete and correct.

On recommendation of the Executive Council, it was voted that the practice of billing members for five dollars, with the explanation that payment of the additional dollar for the support of the Review is optional but desirable, be continued in 1926 and until action is taken to the contrary.

With a view to maturing plans for the most proper and advantageous use of the Association's present funds, and also considering the feasibility of seeking funds of a more ample nature than can be derived from the ordinary sources of income, a committee on fiscal policy was set up, composed of Dr. Charles A. Beard, incoming president; Professor Charles E. Merriam, retiring president; Professor J. R. Hayden, secretary-treasurer; Professor Frederic A. Ogg, managing editor of the *Review*, and Professors John A. Fairlie and R. C. Brooks.

During the summer Professor John A. Fairlie, managing editor of the *Review* since 1917, asked to be relieved, and in October the Executive Council informably elected Professor Frederic A. Ogg, of the University of Wisconsin, as successor. Professor Fairlie's resignation was definitely accepted at the December meeting, with strong expressions of appreciation of his services during the past nine years; and the election of Mr. Ogg was made definitive. On nomination of the latter, Professor Fairlie was continued as a member of the Board of Editors; and further changes in personnel were made as follows: (1) Dr. W. F. Dodd retired because of pressure of other work; (2) Professors W. J. Shepard, of the Brookings Graduate School, Bruce Williams, of the University of Virginia, and Dr. C. A. Berdahl, of the University of Illinois, were added, thus raising the number of members (in addition to the managing editor) from eight to ten.

Comprehensive reports were heard from the representatives of the Association in the American Council of Learned Societies and the Social Science Research Council. Synopses of these reports, as presented by Professors J. P. Chamberlain and C. E. Merriam, respectively, are printed below.

It was reported by Professor Fairlie that active steps have been taken toward arranging for the preparation and publication of an encyclopaedia of the social sciences; and it was voted that representation in the inter-association executive committee which is considering the project be continued and that the sum of \$250 be appropriated from the treasury of the Association for use by the committee in maturing its plans.

Officers were elected for 1926 as follows: President, Dr. Charles A. Beard, New Milford, Connecticut; First Vice-President, Professor B. F. Shambaugh, of Iowa State University; Second Vice-President, Professor W. J. Shepard, Brookings Graduate School; and Third Vice-President, Professor R. G. Gettell, University of California. Newly elected members of the Executive Council for the term ending in 1928 are:

Professors A. B. Hall, University of Wisconsin; S. Gale Lowrie, University of Cincinnati; Louise Overacker, Wellesley College; R. M. Story, Pomona College; and L. D. White, University of Chicago. The nominating committee having been unable to propose for the secretary-treasurership the name of a person who had agreed to accept, the Executive Council was authorized to make an appointment for 1926.¹

The place of meeting in 1926 was left to decision of the Executive Council. Announcement will be made in the May issue of the REVIEW.

The American Political Science Review.² The American Political Science Association was organized at New Orleans in December, 1903. For three years the only publication was an annual volume of *Proceedings and Papers* at the annual meetings. In November, 1906, the first number of the AMERICAN POLITICAL SCIENCE REVIEW was issued; and for seven years both the quarterly REVIEW and the annual volume of *Proceedings* were published; for the last two of these years, the *Proceedings* were issued as a supplement to the REVIEW.

During this period the volume of *Proceedings* varied from a minimum of 176 pages (for the 1909 meeting) to a maximum of 335 pages (for the 1907 meeting). The REVIEW varied from 653 pages (for the year 1910) to 740 pages (for the years 1913 and 1914). The largest single year's publication was 1,035 pages (in 1908), and the smallest, after the REVIEW was begun, was 829 pages in 1910.

After the separate publication of the *Proceedings* was discontinued, the size of the REVIEW was increased to about 830 pages; and in 1916, supplements aggregating 62 pages were also issued, making a total of 893 pages for that year.

In the summer of 1916 Professor W. W. Willoughby retired as managing editor; and my service, as his successor, has continued for a substantially equal period. In 1918, increasing prices, due to war conditions, led to a reduction in the size of the REVIEW, which reached a minimum of 656 pages in 1921. Since then it has been again increased, and for the past two years has been 880 and 909 pages—larger than in any previous years, and larger than the REVIEW and *Proceedings* in some years.

Some changes in the internal make-up of the REVIEW may be noted. In the first volume there were 14 leading articles, aggregating 306 pages

¹ Professor J. R. Hayden, of the University of Michigan, was later selected.

² Prepared by Professor John A. Fairlie on retiring from the managing editorship of the REVIEW after nine years of service, and read at the annual business meeting of the American Political Science Association December 29, 1925.

—about 40 per cent of the total. Shorter notes in several departments aggregated 152 pages. Notes on current legislation appeared in each number; and notes on international affairs, colonial government, judicial decisions, and municipal affairs were in one or two numbers. There were also personal and bibliographical notes (65 pages), book reviews (136 pages), and lists of periodical articles and government publications (63 pages).

During the first ten years, the distribution of material altered somewhat. Leading articles increased in number and in aggregate length, especially with the discontinuance of the *Proceedings*, but on the average were shorter. In 1916, there were 26 leading articles, with a total of 393 pages—about 43 per cent. Notes on state legislation continued to be published regularly in each number, totalling 99 pages in 1916. Notes on municipal affairs were frequently published—in three numbers in 1911, totalling 47 pages; but after the publication of the *National Municipal Review* was begun, municipal notes appeared only occasionally, and none in 1916. Toward the end of the first decade, brief notes on state judicial decisions appeared regularly in each number, totalling 34 pages in 1916; and a brief summary of the decisions of the United States Supreme Court was printed for several years. Other departmental notes were not continued regularly. Personal and bibliographical notes, book reviews, and lists of books, periodicals, and government publications were continued.

Since 1916 the number of leading articles and the space given to such articles has noticeably declined. During 1925 there were 14 such articles, aggregating 232 pages—about 25 per cent of the total number of pages in this volume. This has been due in part to a change in the programs for the annual meetings, which have included fewer long papers, and more informal discussions. Some of the papers presented at the meetings have been published in the departmental notes; and others have been published in other places. Nearly all of the papers which have come to the editor have been published, as well as articles from other sources.

On the other hand, the space given to departmental notes and the number of separate departments has been materially increased. Legislative notes and reviews have appeared regularly in each number, but the number of pages has somewhat declined. This has been due in part to an apparent decline in the activity of state legislative reference bureaus. Judicial decisions on public law are published frequently—a general summary of the decisions of the United States Supreme Court, and a section of brief notes on state decisions, appearing each year.

Notes on international affairs and on municipal affairs are included from once to twice a year. New departments of notes on American government and politics and on foreign governments have been established, and appear from time to time—notes on foreign governments twice or three times a year. Notes on colonial government have not been continued. The departmental notes in recent years are usually short articles, and sometimes longer articles, rather than brief paragraphs on a larger number of subjects.

For the last two years, the reports of the National Conference on the Science of Politics and the reports of the round table conferences at the annual meeting have added another new feature.

Book reviews and personal and miscellaneous notes have been continued regularly, with some increase in the space given to book reviews and notices. The list of publications has been greatly extended, partly on account of the increased number of such publications, but also because the work has been more systematically and thoroughly carried out.

In the development of the special departments, credit is due to the various members of the board of editors, and to others in charge of particular departments.

Two tables of statistics appended to this report illustrate some of the topics discussed.

For the future, one problem which should be considered is the preparation and publication of another general index at the end of the twentieth volume of the REVIEW. In 1917 a general index was published covering the ten volumes of *Proceedings* and the first ten volumes of the REVIEW. This was prepared at the Indiana Legislative Reference Bureau, under the supervision of Mr. John A. Lapp. If another Index is to be prepared at the end of the twentieth volume, work on it should begin soon, and it will be necessary to decide whether this should cover only the second ten volumes or should include also the earlier volumes and the *Proceedings*.

TABLE I

PROCEEDINGS OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION AND THE AMERICAN
POLITICAL SCIENCE REVIEW, 1904-1925

	<i>Proceedings</i>	<i>Review</i>
1904	249	
1905	232	
1906	258	1906-07
1907	335	1907-08
1908	261	1908-09
1909	176	1909-10
1910	197	1910-11
1911	226	1911-12
1912	197	1912-13
1913	193	1913-14
	Supts.	1915
	62	1916
	831	1917
	827	1918
	772	1919
	734	1920
	173	1921
	656	1922
	766	1923
	738	1924
	880	1925
	908	

TABLE II

AMERICAN POLITICAL SCIENCE REVIEW

	1906-7	1911	1916	1920	1925
Leading Articles	14-306	18-287	26-393	12-243	14-232
Notes on Legislation	4-114	4- 96	4- 99	4- 76	4- 71
Judicial Decisions	1- 4	.....	4- 34	4- 69	2- 35
International Affairs	2- 11	.....	.....	2- 50	1- 18
Colonial Government	1- 2	.....	.....	.....	.....
Municipal Affairs	1- 11	3- 47	.....	1- 22	1- 13
American Government	.....	.....	.....	2- 32	1- 12
Foreign Governments	.....	.....	.....	3- 27	3- 80
Reports on National Conferences	.....	.....	.....	.....	1- 59
News and Notes	4- 65	4- 72	4- 73	4- 38	4- 56
Book Reviews	4-136	4-116	4-127	4-125	4-153
List of Publications	4- 63	4- 65	4- 85	4-100	4-147
Vol. Index.	18	16	9	10	10
Proceedings	721	689	831	773	909
Supplements	258	197		62	
Totals	978	886	892	773	909

Annual Report of the Social Science Research Council.¹ The Social Science Research Council was organized in 1923 by concurrent action of national associations interested in social research. This group at first included the American Economic Association, the American Sociological Society, the American Political Science Association, and the American Statistical Association. During the year 1925 the membership of the Council was increased by the addition of representatives from the American Psychological Association, the American Anthropological Association, and the American Historical Association. Each organization has three representatives in the Council.

The seven organizations are now brought together for the purpose of promoting the interest of scientific research in the field of social inquiry, particularly in cases where problems overlap the boundaries of one or more of the special fields concerned. It is believed that with the seven thus united it will be possible to advance the prospects of social science by the study of methods of social research, by consideration of special problems, and by coördination of scattered types of inquiry otherwise independent and isolated.

During 1925 the Council appointed a special committee on problems and policy for the purpose of considering certain special questions already before the Council, as well as others, and of canvassing the general policy to be followed by the Council. This held a ten-days' session at Dartmouth College during the summer and considered at length the work of the Council in general and a number of specific problems in particular. As a result, the Council decided to organize a standing committee known as the problems and policy committee, to consist of six members chosen by the executive committee for a term of three years. Under the general direction of the Council, this committee will have power to devise and recommend research problems referred to it by the Council, and any other problems that the committee may see fit to recommend. The committee will ordinarily deal with each of the following aspects of the problems considered: (1) the practicability of the problem for scientific investigation; (2) adequateness and appropriateness of the technical plans and budget involved; (3) selection of personnel for the supervision of the problem. The committee will have power to appoint special advisory committees, of ordinarily not more than five, to consider the formulation of a problem, to analyze the problem into parts susceptible of scientific treatment,

¹ Presented at the annual meeting of the American Political Science Association, December 28, by Professor Charles E. Merriam, Chairman of the Council.

to study the character and scope of the investigations which seem desirable, and to suggest agencies whose coöperation can profitably be enlisted in the work.

This committee now consists of the following members: Professor A. B. Hall, University of Wisconsin, chairman; Professor Edwin F. Gay, Harvard University; Mr. Shelby M. Harrison, Russell Sage Foundation; Professor Clark Wissler, Yale University; Dr. H. G. Moulton, Institute of Economics, and Professor R. S. Woodworth, Columbia University.

The committee has recommended, and the Council has approved, the setting up of committees on research in the fields of (1) alcoholism, (2) the negro problem, (3) the study of crime, (4) agricultural economics, and (5) certain significant phases of social and industrial relationships. On recommendation of the committee, the Council at its last meeting also adopted the following general policies in respect to research: (1) ordinarily it will be the policy of the Council not to undertake investigation directly, other than preliminary studies; (2) ordinarily the Council will deal only with such problems as involve two or more disciplines; and (3) generally it will be the policy of the Council to serve only as a clearing house in matters of research in the social science field. Furthermore it was determined by the Council to undertake the gathering of pertinent information concerning research projects, personnel, and funds and endowments available for research. It was understood that the Council would coöperate with any other agencies interested or engaged in similar enterprises in overlapping fields.

It is hoped that the administration of the Council's projects and problems will be covered by adequate financial arrangements for this purpose. During the year 1925 a grant was made to the Council by the Russell Sage Foundation for the expenses of general administration, but a new budget is being prepared covering the work of the Council and the problems committee which it is hoped may be favorably acted upon in the near future.

During 1925 funds were made available to the Council for the purpose of awarding fellowships to advanced students desiring to carry on social research in the field of the social sciences broadly construed. Speaking generally, these fellowships correspond to those awarded by the National Research Council. Evidence of exceptional ability in research must be presented by each applicant, together with a definite outline of a project giving promise of scientific accomplishments. The terms of the fellowship may range from several months to as much as two years, depending

upon the character and requirements of the problem. The work of the fellows is subject to the supervision of the Council's committee on fellowships, of which Professor Wesley C. Mitchell, of Columbia University, is chairman and Professor F. S. Chapin, of the University of Minnesota, secretary. A substantial fund to cover these fellowships for a period of five years has been set aside by the Laura Spelman Rockefeller Memorial. In 1925 the sum of \$49,000 was available for the purpose.

During the past year the committee on human migration, of which Dean Edith Abbot is chairman, continued the development of its projects. One unit of the plan was undertaken by the National Bureau of Economic Research, under whose general direction Professor Harry Jerome, of the University of Wisconsin, was engaged in the study of the relation of the mechanization of industry to migration. This project was continued during the year 1925-26 and will be completed by July 1, 1926.

The committee also undertook a statistical study of the basic movements in migration in recent times, under the direction of Professor Walter F. Willcox, of Cornell University. In coöperation with the National Research Council's committee on human migration (of which Professor Stratton is chairman), a comprehensive plan is now being worked out, and it is hoped that the plan may be completed within a short time and its execution vigorously pushed forward. The coöperation of the committees from the two councils offers an excellent example of the possibilities, and also the difficulties, of bringing about successful coöperation between those interested in the social implications of natural science and those interested in social science.

The committee on international news and communication, of which Mr. Walter S. Rogers is chairman, continued the development of its program during the year 1925. An interesting offshoot of the work of this committee is the establishment in 1925 of an Institute of Current World Events, a foundation which will make possible a detailed study of and reporting on current social events in a wide range of nations. This foundation, of which Mr. Rogers is director, will undertake to develop personnel for the purpose of studying questions of news and public opinion in different parts of the world and of reporting their findings in the United States by means of articles, addresses, and discussions. This project is now just beginning, but is already financed on a scale sufficiently broad and generous to make it possible to test out its possibilities. While this result was not anticipated when the Council

created the committee, it illustrates the possibilities of indirect development in collateral fields.

The committee on indexing and digesting of the session laws of the various states, of which Professor Joseph P. Chamberlin, of Columbia University, is chairman, has continued its activities during 1925 and has made substantial progress. An appropriate bill has been carefully drawn and the whole question will come before the House judiciary committee during the coming winter. It is hoped that it will be possible to make progress with the financing of this very significant project. Through the efforts of the committee, the support of a large number of organizations has been secured, and there is every reason to believe that the work of the committee will be successful in the near future. This project, if carried through, would constitute an achievement of very great significance in the practical study of American legislation.

The committee on social science abstracts, of which Professor F. S. Chapin, of the University of Minnesota, is chairman, is still engaged in the development and financing of its plan. The committee's activities during the year 1925 include: (1) The preparation of sample abstracts of social science articles drawn from the fields of anthropology, economics, political science, and sociology. This material will be published in the form of a dummy for distribution among members of the social science societies in order to ascertain the interest in a possible Journal of Social Science Abstracts and to determine what support may be obtained in the form of individual subscriptions for such a publication. (2) Promising contacts have been established with several publishing houses regarding the publication of such a journal as soon as a budget and editorial arrangements can be worked out. With assurances of some subscriptions and a moderate endowment, the committee believes that a publishing house will be found willing to undertake the publishing of this journal. (3) The committee has also undertaken to obtain a subvention to establish the journal.

The committee on the survey of social science agencies, of which Professor Horace Sechrist, of Northwestern University, is chairman, has continued its consideration of the plan for a study of social research agencies, with special reference to the technical methods employed, and with the hope both of developing closer coördination of social research projects and of aiding in the evolution of more scientific approach to social problems. This committee, one of the first organized by the Council, has been reconstructed this year and is prepared to pursue its objectives more effectively.

On the whole, the Council has made substantial progress in 1925, both in the direction of more effective organization and in dealing with specific types of problems. It is the hope of the members of the Council that it may be increasingly useful to students of social science and that the various constituent organizations and their respective members may find it helpful in the organization and development of technical social research. The Council is in an experimental state, and suggestions for making undertakings and methods more valuable to the social sciences or to those interested in the social implications of natural science are welcomed.

Annual Report of the American Council of Learned Societies.¹ The activities of the American Council of Learned Societies (ACLS) fall into two general categories, according as they have to do with (1) international coöperation arising chiefly out of the Council's membership in the Union Académique Internationale (UAI) and (2) the development of relations between the constituent societies and the promotion of their interests and the advancement of the humanistic and social sciences in the United States.

Activities which are of at least incidental concern to political scientists include: (1) the preparation of a dictionary of medieval latin, and also of a dictionary of late mediaeval British latin; (2) the setting up of a committee on intellectual coöperation (chairman, R. A. Milliken); (3) new arrangements for the distribution of American learned publications abroad; (4) annual conferences of secretaries of the constituent societies, held in New York at the expense of the ACLS; (5) the establishment of *Speculum*, a journal of medieval studies; and (6) assistance to the American Library Association in preparing its annual catalogue of books recommended for purchase by public libraries.

Activities of larger or more direct concern include:

Dictionary of American Biography. The committee on management, J. Franklin Jameson, Carnegie Institution of Washington, chairman, has selected Professor Allen Johnson, of Yale University, to be general editor, and he will assume active charge in February, 1926. Meanwhile,

¹ Composed of two representatives each of the American Political Science Association and eleven other societies devoted to humanistic and social studies, as follows: American Philosophical Society, American Academy of Arts and Sciences, American Antiquarian Society, American Oriental Society, American Philosophical Association, Archaeological Institute of America, Modern Language Association, American Philological Association, American Historical Association, American Economic Association, and American Sociological Society.

considerable progress has been made in drawing up preliminary lists of persons to be considered for inclusion in the Dictionary, and the co-operation of the constituent societies through the appointment of consulting representatives has been invited.

Survey of Research. The Council has secured a subvention of \$10,000 from the Carnegie Corporation for a survey of research in the United States in the humanistic and social sciences. The survey will include projects of research being carried on by societies, academies, institutions, foundations, governmental agencies, research bureaus, etc., as well as by individual scholars, including students in graduate schools. It is also proposed to make as complete a list as possible of all funds, fellowships, prizes, etc., which are available for the aid and encouragement of research, and to investigate the existing means of publishing the results of research. The survey will proceed actively during the coming spring and summer, under the direction of Professor Frederic A. Ogg, of the University of Wisconsin, who may be addressed at 1133 Woodward Building, Washington, D. C., concerning any aspect of it. Effort will be made to coördinate the survey of the ACLS with surveys which may be planned or undertaken by other bodies, such as the Social Science Research Council and the American Association of University Professors, in order to avoid duplication and to meet as many needs as possible.

Handbook of Learned and Scientific Societies. Upon invitation from the National Research Council, the ACLS is coöperating with that body in planning a directory of American learned and scientific societies and institutions, which will resemble, with important differences, the Handbook compiled by the Carnegie Institution some twenty years ago.

Survey of Learned Societies. The Survey of Learned Societies has progressed during the year and when completed will make a substantial volume. A summary will be issued early in 1926, and the complete work will be published during the year.

Grants in Aid of Research. The Laura Spelman Rockefeller Memorial has made an annual subvention to the ACLS of \$5,000 a year for three years on the basis of which the Council is able to offer in 1926, 1927, and 1928 a number of small grants not exceeding \$300 for the purpose of aiding mature scholars in their projects of research in the humanistic and social sciences. The grants will be made for specific purposes, such as travel, assistance, appliances, copies, photographs, computations, compilations, etc., and will be awarded by the Committee on Aid to

Research, of which Professor Guy Stanton Ford, of the University of Minnesota, is chairman.

Catalogue of Foreign Manuscripts in American Libraries. At the last meeting of the ACLS a committee, Professor Karl Young, Yale University, chairman, was appointed to undertake the preparation of a catalogue of manuscripts originating outside of America which are to be found in the libraries and collections of the United States. The value and need of such a catalogue are obvious, and the task before the committee is one of large proportions. It is expected that with the coöperation of the Library of Congress and of the principal University libraries, a substantial beginning in the actual cataloguing of certain collections will be made during the coming year.

Encyclopedia of International Public and Private Law. The Royal Academy of Sciences of Amsterdam has recently presented a proposal to the member academies of the UAI for the compilation by international coöperation of an Encyclopedia of International Public and Private Law. This proposal was considered by the ACLS at its annual meeting in January, 1926, and will come before the UAI for consideration in May of the same year. The American Society of International Law has been asked to join with the ACLS in the consideration of this project.

Dictionary of Indonesian Customary Law. American scholars have not as yet taken an active part in the gathering of material for the Dictionary of Indonesian Customary Law. Efforts are being made, however, to organize a committee in the Philippines and in the United States which will make possible the important contribution to this work that is properly expected from this country.

The American delegates presented to the UAI a proposal by the ACLS for an International Survey of Current Bibliography and of important retrospective bibliographies since 1914 devoted to the humanistic and social sciences. The object of the proposed survey is to prepare a list containing detailed descriptions of current bibliographical enterprises, which would enable scholars to have more complete knowledge than is at present easily obtainable respecting the important bibliographical tools in their respective fields. Such a survey will doubtless reveal much duplication, as well as important gaps, and will be the first step toward systematising and making more comprehensive the bibliographical record of the current output. The ACLS is now engaged in developing the proposal for further examination at the next meeting of the UAI. The informal proposal of the delegates of the ACLS that the UAI should undertake enterprises in the fields of modern

history and the social sciences was warmly received, and it is expected that such projects will be undertaken in the near future, thus balancing the present tendency to emphasize work in archaeology and philology.

In concluding its report for the year, the executive committee calls attention to the fact that the American Council is a representative body, the agent of its constituent societies, and that it urgently invites suggestions as to ways of serving their joint and several interests. The representatives of the American Political Science Association in the Council are Professors J. P. Chamberlain, of Columbia University (chairman), and Frederic A. Ogg, of the University of Wisconsin.

BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

The Moral Standards of Democracy. By HENRY WILKES WRIGHT.
(New York: D. Appleton and Company. 1925. Pp. 309.)

Idealism these days is on the defensive all along the line. The attack takes various forms. The mechanistic trend of science, realism in art and literature, behaviorism in psychology, and pragmatism in philosophy, all represent in one phase or another a definite reaction against idealism. In politics, as elsewhere, this tendency is clearly visible. T. H. Green and Bernard Bosanquet have gone out of fashion; Graham Wallas and Harold Laski are more or less the vogue. We do not have to turn to the pages of *The American Mercury* to discover the drift away from the ideals of the Victorian epoch. Even Lord Bryce in his *Modern Democracies* sounded a distinct note of disillusionment; and Professor Dunning in the closing chapter of his third volume seems oppressed with a sense of the futility of ideas as a creative force in political affairs. Henry Adams was merely a decade or two in advance of his times in depicting the degradation of the democratic dogma. Indeed, democracy, the cardinal ideal of nineteenth-century politics has well-nigh ceased to cast its spell. Perhaps the war and its consequences may have intensified the movement away from ideals. Certainly there is a decided revulsion today against such general notions as "making the world safe for democracy"; and even "national self-determination" leaves us cold.

Our present approach to social problems is far more skeptical than that of a generation, or even a decade, ago. Furthermore, we are not looking for general solutions, nor do we invoke general principles. Institutions rather than ideas are the subjects of our interest and investigation; and institutions we justify or condemn by some rather pragmatic standard of immediate social utility, not with reference to their conformity or lack of conformity to any exalted and abstract ideal. We favor or condemn such institutions as proportional representation, the manager system of municipal government, bicameralism, a national

budget, inheritance taxes, the League of Nations, and even woman suffrage, because we believe that in each case the weight of evidence indicates that they do, or that they do not, work satisfactorily with reference to the immediate problems and the immediate situation which they confront. This is largely true both of the student of politics and the man on the street. The *Zeitgeist* affords meagre hospitality to general ideals.

Has the pendulum swung too far in the pragmatic direction? Is a reconciliation indeed possible between such apparently antithetical points of view as those of the physiological and behavioristic psychologist on the one hand and the disciple of Kant, Hegel and Green on the other? Would such a reconciliation not mean the bridging of the hitherto impassable gulf between physics and metaphysics? These are some of the questions which occur to the reader of Professor Wright's little volume.

It is indeed a reconciliation between the points of view of behavioristic psychology and idealistic philosophy that the author attempts,—certainly, we may say, an ambitious undertaking. Probably not many readers will agree that he wholly succeeds, but that the effort is decidedly worthwhile and that the views presented are highly suggestive, indeed intriguing, cannot be gainsaid. And withal, the discussion is at all times lucid, the argument advancing in cogent form with interest continually maintained. Democracy, for Professor Wright, is not the mere enthronement of the majority principle nor the embodiment of the idea of equality. Its essence is rather that of community. "By community is meant the participation of all members of society in a good which cannot be divided into parts that fall to the exclusive possession of their individual owners, but which, since it is by nature a common good, can only be realized jointly by a group of communicating individuals." It is in analyzing this community relationship that the author carries us far into the discussions of contemporary psychology.

His entire thesis rests upon a fundamental distinction between the processes of instinct and intelligence. The former are inborn action patterns which bring about adjustments between the organism and its environment; the latter consist essentially in the capacity of selection from the changing world of sense-perceptions of those qualities and relations of permanent interest and import. It is on the higher level of intelligence that there enters a field of choice, of freedom, based upon a conception of values which are universal, because such values reflect the unity of intelligence itself, comprehending the totality of experience

Thus, the individual intelligence identifies itself with a comprehensive rational community.

Democracy is, for Professor Wright, identical with such an inclusive rational community. Its achievement is possible through the three forms of human association: discussion, coöperation, and imaginative sympathy. In discussion there is a sharing of ideas; in coöperation there is a sharing of the practical adjustments or controls by which external nature is made to serve the ends of man; in imaginative sympathy there is a sharing in the emotional life of individuals. In all these forms of association, sharing does not reduce but enlarges the share of each participating individual. Thus the good life is a community life, an ideal democracy. "The moral ideal . . . calls for the existence or creation of a society, a universal community of intelligent persons, among whom there is complete mutual understanding, working fellowship, and imaginative sympathy."

The latter part of the book is devoted to a discussion of the means by which progress toward this democratic ideal may be furthered. The chapters on Democracy and the Development of Social Institutions, Democracy and Education, and Democracy and Industry, contain the author's views in regard to the essential steps needed to vitalize and invigorate the institutions through which this ideal is now partially attained, and through which its more complete realization is possible.

Professor Wright's essay is a challenge to latter-day skepticism and disillusionment and, as such, it deserves a wide reading.

WALTER JAMES SHEPARD.

Robert Brookings School.

Contemporary Political Thought in England. By LEWIS ROCKOW.
(New York: The Macmillan Co. 1925. Pp. 336.)

The Indestructible Union. By WILLIAM McDougall. (Boston: Little, Brown, and Co. 1925. Pp. xiii, 249.)

Mr. Rockow's survey of contemporary political theory in England offers some interesting points of comparison with the grouping of political problems centering about nationalism which Professor McDougall has undertaken for the United States. In spite of a necessary divergence of method due to the fact that the former is cataloguing the main figures of English political thought, without any attempt to group his theorists about a coherent set of problems, while the latter is dealing *ipse dixit* with his own theory of nationalism, there is an interesting

common theme implicit in the two books: the growth of an inter-dependent economic and social community within the area of nationalism which is forcing a reconstruction of the individualistic liberalism of nineteenth-century democratic philosophy. The preoccupation of English thought is naturally centered upon the means of preserving some ethical basis of government that will yet square with the efficiency necessary to the economic survival of that "tight little island," now fairly bulging with a surplus population. Professor McDougall's interpretation of the great problem of American nationalism, on the other hand, is one that emphasizes the assimilation of races, their exclusion, in order to secure what he has earlier called the true "group mind."

Although Mr. Rockow leads off his list of theories with what one may call the English period of Professor McDougall's writing, it is obvious that he is writing of a different figure than the author of *Is America Safe for Democracy* and *The Indestructible Union*. The Professor McDougall of the social psychology period, about whom Mr. Rockow writes, fits into the context of English theory; he is interested in the theoretical groundwork of society and the state; in the latter period he is more American than the Americans in turning pragmatically to the actual state of the nation.

Historians will no doubt be scandalized by the seven-league strides Professor McDougall makes through the development of nationalism, and by what is certainly a very scant realization of the tough reality of the federal spirit in a country so huge and so diverse. The biology of democracy is important enough, and no one would suggest slighting the racial problem. And yet, to pass so hastily over economic and cultural forces as Professor McDougall has done in creating his *Indestructible Union* is openly to court the charge of superficiality and lack of complete acquaintance. As usual, he is not lacking in daring proposals or in vigor of conviction. The only solution of the negro problem seems to him to lie in providing a territory sufficient for a population of fifteen or twenty millions in which the negro may be segregated completely. Without wasting time in the consideration of ways and means, he suggests that "such a territory might be set aside in the Southern part of the United States" or perhaps in Africa or New Guinea. An effort to carry into effect some program of expropriating the South might afford a very interesting test of the indestructibility of the Union. Certainly Southerners would be apt to put the worst interpretation on Professor McDougall's confession in the preface: "On one side I come

of Puritan ancestors, and since boyhood I have felt, that but for the accident that I was born three centuries too late, my natural place in the world would have been in the neighborhood of Plymouth Rock."

For the rest, in spite of his graceful apology for venturing, a foreigner, to write of American nationality, Professor McDougall may claim to pass a sufficiently high test to satisfy the Ku Klux Klan—from whom he professedly differs chiefly in the possession of a sense of humor. But Americans have been often enough written about by foreigners, with great profit to themselves, to accept an Englishman's views with gratitude, if not with conviction. It is only when the *Indestructible Union* leans too heavily upon excerpts from ex-ambassador Child's editorials extraordinary in the *Saturday Evening Post* that our urbanity is apt to be sorely tried.

Little more need be said about Mr. Rockow's book than that it is, apparently, a thesis of some distinction, with the virtue of being a useful and fairly exhaustive catalogue of representative English political writers, including dramatists and novelists. The criticism incidental to an interesting exposition of their theories is able and valuable, although it is possible to differ sharply with the author in his values and emphasis, in the exposition of many of his protagonists as well as his critique of them. There are some remarkable omissions, no doubt dictated by the curious method of selecting two figures from each general type of theory. The selection of Jones and Watson as the representatives of Idealism is defended on the doubtful grounds that they are more truly contemporary than Bosanquet and Bradley—a conclusion hard to defend either on dates of demise or on contemporary influence. And any method that must include thirty pages or more on the egregious Pauls, in order to find two spokesmen for communism, with hardly a mention of theorists like Ernest Barker and A. D. Lindsay (who are not so easily pigeon-holed as spokesmen for modern Liberalism) is certainly Procrustean in its selection and emphasis. The aristocratic tradition of English letters has not so entirely disappeared that the entire field of periodical literature may be overlooked in favor of books alone. Here, or elsewhere, the limitations of the views held by the group of London economists and sociologists so gratefully named in the preface appear in Mr. Rockow's estimate.

But in spite of these defects, which to many will perhaps appear to be virtues, Mr. Rockow's book is sure to prove very useful to students of contemporary theory. Its bibliography, though neither exhaustive

nor happily arranged, covers the main ground thoroughly and well.

W. Y. ELLIOTT.

University of California.

A Grammar of Politics. By HAROLD J. LASKI. (New Haven: Yale University Press. 1925. Pp. 672.)

This book is a treatise on the theory and organization of the state. It is also one of the infinite series of books which attempt to show that the English constitution, in spite of its faults, is the best constitution that ever existed. Mr. Laski has often, and justly, been called "radical." In this volume he is radical in his economic views, but rather conservative politically. In his preface Mr. Laski says "this volume completes an effort . . . to construct a theory of the place of the State in the great society." As a matter of fact, the faults of the book come from the fact that Mr. Laski seems to think he has discovered something new in political theory, and the virtues of the book come from the fact that he has been for a dozen years a careful and thoughtful observer of English government and politics. There are also many evidences that he was for some time a close, if unfriendly, observer of American institutions.

The book is divided into two parts. The first is a discussion of political first principles. Mr. Laski's fundamental philosophy is an eclectic utilitarianism. He believes the happiness of the individual is the end of social organization. He does not believe that the individual is the best judge of the means of his own happiness. Therefore, the state must be very active. Yet the state, naturally prone to serve the ends of the governors rather than of the governed, must be checked by a system of "rights." Rights are "those conditions of social life without which no man can seek, in general, to be himself at his best." They include the political and legal rights which usually characterize modern democracies, and such economic rights as the right to work. The means of securing these rights from encroachment on the part of the state is in the last analysis through the right of revolution, though Mr. Laski expects a continuous check on the state through the moral influence of associations of citizens.

The second part of the book contains Mr. Laski's suggestions as to the correct way of organizing governments. Here the author is not only much easier to follow, but much more stimulating. He discusses all the actual problems of governmental organization. He gives the

arguments for the various solutions without apparent prejudice; his conclusions are reasonable, and often very conservative. He defends, for instance, legislatures elected on a geographical basis, single-member constituencies, the English cabinet system. His most radical suggestions are a single-chamber parliament, and "devolution." He emphasizes international organization. On economic questions he is more radical; he holds the "functional" conception of property, and he believes in thorough-going governmental control of industry. Mr. Laski's own suggestions, indeed, are about what one would expect from a thoughtful member of the center of the English Labor Party: they are what we vaguely term socialistic, meaning egalitarian, rather bureaucratic, and lacking in respect for vested interests.

Mr. Laski's discussions of practical questions are excellent. Nowhere can be found a more nearly complete or more reasonable discussion of such questions as freedom of speech, or second chambers, or a more interesting discussion of "the judicial process."

The book has grave faults. It is diffuse in the extreme, and there is endless repetition. Part one is hard reading, and the whole volume is marked by Mr. Laski's too great facility of expression. But the book has virtues which far outweigh its faults. It is suggestive, stimulating, alive. Though it is not strikingly original, it is unquestionably a very important work.

E. P. CHASE.

Wesleyan University.

The Phantom Public. By WALTER LIPPMAN. (New York: Harcourt, Brace and Company. 1925. Pp. 205.)

Most writing that appears under the name of political theory might better be called political literature. Certainly it is not theory in any scientific sense, for a true political theory is a generalization that accurately explains the facts of political behavior. Unfortunately, most so-called political theory consists either in retroactive rationalization in defense of official actions, or political dogmas, or pure speculation for the joy of the game, or propaganda in behalf of specific proposals. It seems to derive its influence from the lure of the literary form in which it is expressed, from the splendid emotional ideals in which it is conceived, from the occasional flashes of intimate insight into human nature it evidences, or from the intriguing ingenuity displayed in its formulation.

The present volume is excellent literature. It is iconoclastic rather than in support of established dogma. While it does not contain scientific generalizations based upon objective evidence, it does suggest interesting and plausible hypotheses, in explanation of the democratic process. It is intriguing in its ingenuity, and realistic in its approach.

The author's thesis is that the infinite number of intricate problems that daily require solution involve matters that are never within the horizon of popular consciousness or interest. The idea, then, that the public does or could rule directly is a myth. Many straw-men are ruthlessly trampled down in making this point. The omnipotence of majorities, the conception of the voice of the people as the voice of God, and similar relics of political romanticism are thrown overboard. "The justification of majority rule in politics is not to be found in its ethical superiority. It is to be found in the sheer necessity of finding a place in civilized society for the force which resides in the weight of numbers." (p. 58.)

The author rightly believes that the first step in improving government is to recognize what the public can and cannot do and then to find simple objective tests, within the range of popular interest and capacity, by which the public may judge the government with intelligence, though in ignorance. Mr. Lippmann would cut his pattern to fit his cloth. He would create a rôle for the public so simple and objective that the public could play the part. He sees the business of government as the process of establishing and maintaining an effective *modus vivendi* between the various conflicting interests of modern society, a notion closely akin to the governmental conceptions of Duguit. As long as this is done, the public has no interest. When existing adjustments fail, the public is interested and then only should it intervene. At all other times the government should be, and is in fact, run by officers and politicians and not by the public.

A strong case is made that executive action, the intrinsic merits of public questions, and technical matters of method, are not suitable for public decision. "What is left for the public is a judgment as to whether the actors in the controversy are following a settled rule of behavior or their own arbitrary desires. This judgment must be made by sampling an external aspect of the behavior of the insiders." (pp. 44-45). Simple criteria must be discovered by which the public can distinguish between reasonable and arbitrary conduct. "It is the task of the political scientist to devise the methods of sampling and to define the criteria of judgment. It is the task of civic education in a democ-

racy to train the public in the use of these methods. It is the task of those who build institutions to take them into account." (p. 145).

In suggesting simple tests within the capacity of the public to apply, the author has been ingenious. The willingness of partisans to submit a controversy to inquiry or debate, popular assent and conformity to a given rule as evidence of its utility, a proposed reform's provisions for its own clarification and due process for its amendment, have been suggested as useful criteria that the public may use in reaching its judgments. But in the last analysis, it is the choice between the "outs" and the "ins" that "is the essence of popular government."

Throughout, the author has made a brilliant and telling attack upon the personification of society and has pointed out that centralization, one of its offspring, necessarily reduces and complicates the rôle of the public in the control of government. The chief value of the volume lies in its suggestiveness and in its realistic point of view. It opens up alluring vistas of political analysis and research. At least two major projects are suggested: (1) How may the processes and structure of government be so modified that the public's rôle in regard thereto will be reduced to a point commensurate with the public's interest and capacity? (2) How may there be formulated simple and objective tests for determining the social value of a policy or an administration and how may the validity of such tests be determined by the facts of experience?

ARNOLD BENNETT HALL.

University of Wisconsin.

New Aspects of Politics. By CHARLES E. MERRIAM. (Chicago: The University of Chicago Press. 1925. Pp. xvi, 253.)

This book consists of eight chapters, the greater part of its material having been published elsewhere as separate essays. Because of this fact, the unity of the book is in its point of view rather than in the topics with which it deals. The chief interest of the author is in improving the methods of political research and of political reasoning. Modern students of political theory realize that their science has been hindered by the survival of outgrown doctrines, has been influenced too greatly by custom, fear, and force, and has not kept abreast of recent advance in other fields. Professor Merriam urges "the perfection of political education, the organization of political intelligence, the advancement of political research, and the discovery of scientific relations in the political process."

The first chapter points out the important contributions to political science made during the past half-century by history, economics, statistics, psychology, biology, anthropology, geography, and engineering. The second chapter is a condensed survey of the methods of inquiry in political thought, and a statement of the fundamental difficulties in applying scientific methods to the study of political processes. The following two chapters discuss the relation of politics to psychology and to statistics, two fields of especial interest and promise at the present time. The next chapter deals with the biological background of politics, and considers the political influence of inheritance and environment. The remainder of the book urges an accurate assembling of facts as the basis for further progress in politics, suggests a number of concrete problems that need investigation, and proposes methods by which these problems may be approached.

This book should be widely read by students of government. In a democracy in which public opinion is supposed to shape governmental policy, it is essential that a public opinion, in the sense of rational judgments based on extensive and accurate information, should exist. There is also need for trained leadership and expert administration. Professor Merriam is doing valuable work in insisting upon these points. He realizes that political ideas cannot be evolved from the inner consciousness of closet philosophers, but must be derived from actual facts and from existing conditions and needs. Under the complex conditions of modern life, especially in our great cities, the need for organization of scientific research in government is especially great. As the author says, "Jungle politics and laboratory science are incompatible," and he has faith that the intelligence of mankind can be applied in solving the problems of human relationships as well as in mastering the world of natural phenomena.

RAYMOND G. GETTELL.

University of California.

The Public Life. By J. A. SPENDER. (New York: Frederick A. Stokes Company. 1925. Two volumes. Pp. 236; 232.)

The author of these two volumes has already established his reputation as one of the ablest of present-day critics of English political institutions. In this brilliant study he essays the much more difficult rôle of political psychologist and philosopher. "The general scheme of this book is to trace the streams of politics which from the eighteenth

century onwards have converged upon the House of Commons and make it the center of the British public life; to take certain individuals who seem to have been typical children of their time and examine their methods in and out of parliament; to contrast with these the methods of certain public men in other countries and especially the United States; and then to choose certain aspects and problems of the present-day public life and consider those separately. Among these problems I have included that of the press."

From his examination of the character and methods of some of the leading English statesmen of the last century, the author comes to the conclusion that the qualities of leadership are distinctive in each individual and cannot be standardized. The public, on the whole, has been singularly just and broadminded in its choice of political leaders. "The virtues and the talents will always be assured a respective salute from it, but its affection and loyalty are only to be won by some flavor and quality beyond talent and virtue." To this general conclusion there should be added one further observation of the highest moral and political significance. "It is almost an axiom of British public life that no one rises to the highest position unless at one time or another he has stood firm against the prevailing opinion and staked his reputation on what appeared to be a failing cause." The author's treatment of the political leaders of the United States is much less satisfactory. He makes many keen criticisms of American public life and political institutions, but it is evident that he is not familiar with the divergent social and economic conditions of this country which play so large a part in the political life of the nation.

His chapters on the practical problems of government and democracy are most suggestive, particularly in respect to the effect of the three-party system on the future of the Liberal party, and the difficulties of the British Foreign Office in dealing with the entangling alliances of European diplomacy.

But the author's most brilliant qualities are reflected in his discussions of the press and its relation to public life. Here he speaks as one having authority out of the richness of his own experience. He is exceedingly critical of "the mass" direction of public opinion through the concentration of the powers in the hands of a few newspaper proprietors. He is still more critical of the recent alliances between newspaper publishers and public men, even though such alliances are likely to be perilous and short-lived, so far at least as the politicians are concerned. But it is in the field of foreign affairs that he finds the position of a

newspaper editor most difficult and delicate, inasmuch as he is "addressing two or more audiences which may draw widely different conclusions from the same argument and some of these conclusions may be entirely different from what he intends." There can be, in his judgment, no cut and dried solution of the problem, nor will the experience of one case lend much assistance in the settlement of the next. The safest course for the journalist in such circumstances is to go on his own way independent of official pressure or public opinion, or the recriminations of the foreign press. But the chief hope must rest upon the development of a sense of moral responsibility on the part of the press itself toward the millions whom it serves.

In the last few chapters the author sets forth his own political philosophy with reference to the relation of ethics to politics, of capital to labor, and to the right and theory of revolution. His political views reveal an interesting adaptation of the concepts of the English idealistic school to the scientific spirit of our own day. He is no longer content to base his liberal principles upon the dogmatic formulas of mid-Victorian radicalism but insists that all so-called principles of politics must be based upon and tested by careful investigation. This viewpoint finds admirable expression in his discussion of the economic functions of the state. "The state being the guardian of the institution of property cannot fulfill its trust if it is indifferent to the results of its own action, or is content to drift without knowledge into a position in which large numbers of its citizens consider themselves outside the pale of a privileged system and cut off from the conditions of free life. To have accurate knowledge of economic facts and to be aiming all the time at a division of labor which shall give priority to the necessities of life must be the line of safety for governments as for citizens." To this end he suggests the creation of a competent economic general staff of a nonpartisan character which would be charged with the function of preparing reports on the moral and material progress of the country for the information of the government and its critics.

This work, we may then conclude, reveals a significant change in the attitude of English liberalism. The political theories of the Utilitarian school are discarded but the moral idealism of the mid-Victorian reformers is still strongly in evidence. Moreover, a few of the outstanding thinkers of the party have at last come to realize that an effort must be made to reestablish its principles on a more scientific basis by the study of psychological and statistical data and the critical observation of the workings of legislative and administrative organizations.

University of Minnesota.

C. D. ALLIN.

The Foreign Policy of Canning, 1822-1827. England, The Neo-Holy Alliance and the New World. By HAROLD TEMPERLEY. (London: George Bell and Sons. 1925. Pp. xxiv, 636.)

The Foreign Policy of Castlereagh. 1815-1822. Britain and the European Alliance. By C. K. WEBSTER. (London: George Bell and Sons. 1925. Pp. xiv, 598.)

In these two large and handsome volumes by acknowledged authorities we have at last a full, if not a final, account of the two great statesmen whose policies and whose rivalries dominated the years following the great war against Napoleon. It is peculiarly appropriate that they should appear at this time. If the problems which have confronted Europe during the past six years have not been precisely those which engaged the talents of statesmen in the corresponding period which succeeded the Congress of Vienna, there is, at least, much in that earlier effort to settle European problems which is of interest and importance now. Statesmen as well as historians have reason to be grateful to these scholars for their clear and full account of those English premiers who dominated the foreign policy of their country, and it might even be that from them some lessons can be pondered by their most recent successors with profit.

The writing of diplomatic history is a peculiarly arduous task. Beside the masses of material, which Morley describes as the mountain which he had to level to write his life of Gladstone, may well be set the no less appalling pile of documents which these authors have been compelled to work through, some hundreds of thousands in all. Of them some of the most important have been embodied in the appendices to these volumes, to their great enrichment.

And what of the conclusions of the authors as to that question which has agitated historians for a century? Were Canning and Castlereagh the representatives of two different schools of thought and action, as they appeared to their contemporaries, or were they merely different exponents of virtually the same general policy? If there is one lesson which seems to stand out more clearly than another in these pages it is that of the difference between a diplomat and a statesman which Professor Webster so wisely draws in summing up the character and career of Castlereagh. That he was a great diplomat no one can doubt, "courageous, laborious . . . amongst the foremost of his age," of the highest technical skill in his craft, achieving his purposes until his death with the greatest success. But was the policy wise or permanent, even

with the limited permanence granted to policies? Was it reversed by Canning, as the latter's admirers believed? Was the Castlereagh system better or more enduring than the Metternich system?

To those questions these authors give, naturally, a somewhat qualified answer—indeed it is an answer which each one must make for himself on the basis of the evidence which they adduce. "Castlereagh excelled in the handling of men," was supreme in adroit and tactful execution; Canning in "the intellectual conception of policies." Each feared democracy, but Canning less than Castlereagh. The one achieved his results by more reliance on peoples, the other on rulers. Castlereagh "failed to appreciate the fact that nationality and self-government were the master forces of the nineteenth century." Canning was "in a sense the champion of a national independence." In a sense, too, each was, in consequence, both right and wrong. The one rested his influence upon his personal relations with those in whose hands lay the direction of European states; the other rested his on public opinion. If we judge them by the standards which seem to prevail at the present moment, Canning seems likely to be awarded the palm; but there is still much to be said for his great rival. "There will," in the words of Mr. Temperley, "always be some who will think Castlereagh superior to his great successor in character, in diplomatic method, and in achievement. There will be others to whom Canning will remain as the supreme type of a diplomat who made foreign policy popular without ceasing to make it effective Without Castlereagh the world might not have been saved, and without Canning it might not have been freed."

WILBUR C. ABBOTT.

Harvard University.

International Relations. By RAYMOND LESLIE BUELL. (New York: Henry Holt and Co. 1925. Pp. xiii, 768.)

The science of international law has been justly criticized in recent years for its failure to take into account the social and economic forces which determine the relations of states outside the sphere of accepted rules of conduct. Little attempt has been made by writers to do more than expound a system of positive law, devoid of criticism and indifferent to any other issue than the facts by which the existence of the rule in question is ascertained. The historians and the political scientists have long since shown us the way by an interpretation of their subject which takes into account, not merely the external organization of

government and the mechanism of administration, but the material and moral influences which ultimately control the policy of the state. The international lawyers have only just begun to see the necessity of pursuing similar investigations.

In the volume before us Professor Buell enters a portion of this hitherto neglected field and undertakes for us a study of those branches of international relations which lie outside the domain of international law in its strict sense. The opening chapters of the volume deal with the fundamental problems of nationalism and internationalism. What are the elements entering into the sentiment of nationality, how far is self-determination a workable principle under practical conditions, what are the economic forces that tend to isolate nations and which are those that make for internationalism? How have federations of nations been worked out in the past, and what practical coöperation for humane purposes is being carried out at present?

The investigation of these questions leads to a second group of chapters devoted to Problems of Imperialism, which the author restricts to the field of international relations in which the great powers have been engaged in securing control over the backward parts of the world, with the hope of controlling the economic destiny of those peoples for purposes of what is popularly called "exploitation." Following an excellent study of the "Policy of Trusteeship" and its relation to the mandate system, the author takes up the difficult questions involved in the financial control of backward states, points out the dangers of this type of control and the ineffectiveness of "open door" agreements, and shows the necessity and desirability of international as opposed to national control.

A third group of chapters deals with the settlement of international disputes, and surveys the old order of alliances and counter-alliances, and the new order of security agreements, world courts, the Protocol of 1924, international conferences and the League of Nations. The analysis is an unusually good one, but the reviewer would take exception to any suggestion that these questions lie outside the field of international law proper. For in so far as the problem of the collective responsibility of all nations for the protection of each is concerned, or the problem of judicial procedure for the settlement of disputes, or the problem of international legislation by general conventions, it would seem that "international law" is very directly involved. This, however, is little more than to say that where international law is in the making there is no clear line of separation between it and "international relations."

Professor Buell is to be congratulated on having produced a volume which must be of the greatest service to the growing number of instructors who are giving courses in international relations and foreign policy. Particularly commendable is the very readable style in which the volume is written. Without sacrifice of scholarly accuracy and careful detail, the author has given to his study of international relations a graphic character which must stimulate the interest of the student and make its appeal to the larger circle of those who have come to see the vital concern of the United States in the task of introducing some measure of law and order into the present conflict of international policies. Whether taken by itself or as supplementary to courses on international law proper, the volume meets a very real need.

C. G. FENWICK.

Bryn Mawr College.

The Socialist Movement. By ARTHUR SHADWELL. (London: Philip Allan and Co. 1925. Two volumes. Pp. 212; 217.)

State Experiments in Australia and New Zealand. By W. PEMBER REEVES. (New York: E. P. Dutton and Co. 1925. Two volumes. Pp. 391; 367.)

These two books complement each other on the theory and practice of socialism and state intervention.

Dr. Shadwell's volumes describe the history of modern socialism, which the author divides into three phases: namely, from 1824 to 1848; from 1848 to the outbreak of the World War; and from 1914 to the present-day. The first was characterized in both England and France by an emphasis upon the voluntary coöperation of individuals and classes to obtain the new social order and by a desire for the reconciliation of all classes. The second phase was, of course, that in which the economic and political ideas of Karl Marx obtained increasing dominance over the socialist movement. Dr. Shadwell denies originality to Marx, and follows Anton Menger in ascribing the origin of his labor theory of value to Thompson and to the other Ricardian socialists. He next utilizes the analyses of the Marxian theory which have been made by Böhm-Bawerk and Joseph to show the hopeless logical tangle in which the labor theory of value is involved. Dr. Shadwell then declares that the doctrine of the inevitable collapse of capitalistic society (which is indeed the core of Marxian theory) is only an adaptation of Sismondi's analysis of the results of the factory system.

The third phase is characterized by the attempts to put the theories of Marx into practical effect. Here Dr. Shadwell devotes by far the major part of his attention to the theory and practice of Bolshevism and it is here also that his treatment becomes somewhat shrill and undiscriminating. He correctly observes that the Bolsheviks in effect say: "My war and my revolution and my violence are all right," and concludes that "what is sauce for the goose is not sauce for the gander—the end justifies the means but only their end and because it is theirs." He seems, however, to be oblivious to the fact that the dominant classes in our national states hold essentially the same doctrine in their belief (to which the author evidently subscribes) that states can and should use violence to achieve their ends. It is, therefore, perhaps understandable why Trotsky should be skeptical of the pacifistic principles of the great powers after their conduct in the European war, their blockade of Russia, and the financing and equipping by them of the invading armies of Kolchak, Yudinitch, Wrangel, and Denikin. Yet Dr. Shadwell either does not mention these features in the allied policy toward Russia, or glosses them over with a phrase.

Dr. Shadwell does indeed show the essential failure, before the war, of the socialist movement to take the necessary steps for preventing war either by refusing to fight or by striking internationally. He caustically remarks that "at the touch of reality, the proletariat and the socialists alike forgot all about class and were conscious only of country." There is evidence enough in Dr. Shadwell's book, however, that he would have condemned them even more strongly had they remained true internationalists, for he labels the British Independent Labor Party and the Union for Democratic Control as pro-German and denounces the proposal for a Stockholm conference in 1917 as a purely German move.

Dr. Shadwell's remedy for the evils of the day is a change of heart on the part of men and women. But this must be an individual affair, for "when did an act of Parliament ever change anybody's heart?" "The ideal Christian community," the author goes on, "rests entirely on the voluntary principle; it presupposes the right spirit and the Christian doctrine seeks to create that spirit by the moral law without any regard to external circumstances." This principle of Christian anarchism is indeed lofty and is at present realized by some persons. It is doubtful, however, if any considerable proportion of the community will be able to attain the good life subjectively unless certain objective conditions, such as poverty and the lack of economic independence, are removed. Collective action is, of course, necessary to effect this, but

Dr. Shadwell would tend to denounce such action as socialistic because it was applied from without. All in all, Dr. Shadwell seems to have fallen into the delusion, which is so common among people of the comfortable classes whose basic wants are satisfied, that external circumstances do not matter.

Mr. Reeves' book, which was written some years ago, but which now finds its way more extensively into this country through a reprinting, confines itself to a narrower compass. It tells the story of the social experiments which were made under governmental auspices in New Zealand and Australia during the twenty years that preceded the granting of woman's suffrage by the commonwealth in 1902. During this stirring period, Mr. Reeves was a participant in the events which he describes. As the author of the original New Zealand act for compulsory arbitration, his account of this feature is particularly interesting, as is indeed his entire discussion of labor problems in the two commonwealths. His chapter on the land question is particularly valuable in that it is probably the best short statement of the Australian policy during the period which the book covers. Sharing the antipathies of many labor sympathizers in Australasia, Mr. Reeves is a militant defender of the policy of a "white Australia," and, conveniently for himself, has a firm belief in the innate inferiority of the yellow races.

There is a real need for a further study which will supplement this work of Mr. Reeves by chronicling in an equally systematic way the developments in these two countries during the last twenty years in the line of social control.

PAUL H. DOUGLAS.

University of Chicago.

The Relation of Government to Industry. By MARK L. REQUA. (New York: The Macmillan Company. 1925. Pp. xi, 241.)

Mr. Requa's volume is intended for the general reader rather than the political scientist, yet it has a wealth of material that will be of interest to the latter also.

In his foreword, the author, who has been mining engineer, railway executive, consultant, farmer, and public official, states that he seeks to show the dangers of paternalism and of government ownership and operation. He carries this out by a brief historical sketch showing the extent and the results of state interference and paternalism, followed by an analysis of present conditions. In Rome and Byzantium, later in Venice, in England of the 13th century, in pre-revolutionary France, in

colonial Spain and in more modern times, all types of paternalism have failed in their objectives. From the Edict of Diocletian, fixing the prices of both commodities and services, down to the efforts of Filipino politicians to use the government bank and the Insular administration for private business ends, all such legislation has paralyzed the spirit of independence, enterprise and individual effort. The greater the scale on which this is tried, the greater the failure, as is shown by the Bolshevik experiment in Russia.

The growing density of population and the gradual passage from an agricultural to an industrial civilization will require more public supervision in matters of health, transportation, safety and the effective use of common resources. A purely doctrinaire policy of individualism is not defended by the author.

Toward transportation, our policy should be a further development of the principles laid down in the Transportation Act of 1920. We should emphasize less the limits imposed on the carriers and more the development of adequate facilities. We should assure a fair revenue to the railways and not concentrate our attention upon limiting their rates and their combinations for greater efficiency. Our policy should be positive and promotive as well as negative. In shipping, strangely enough, the author favors a subsidy, although he rejects government aid in almost every other department of industry and commerce except farming. It is difficult to reconcile the author's political philosophy with a ship subsidy.

As to the farmer's relation to government, Mr. Requa favors an extension of the credit system, by which the government would help settlers to locate on unimproved, irrigable lands. He points to the success of the Australian plan of 1911 and commends the policy of the California Land Act of 1917, but adds that the latter has been undermined and rendered ineffective by politics. If it should prove impossible to operate such a system without political interference, the author would favor large-scale private systems of coöperation for purposes of land settlement and irrigation.

Regarding the relations of the worker to government, the best results have been secured from voluntary agreements between employer and workers. The systems of employee representation which have been developed in so many different details, but upon one basic principle of conference, the author holds to be satisfactory and, in the main, adequate. He looks forward to a harmonizing of interests in employment questions not by government action but by the gradual evolution of

mutual confidence through conference. In this his philosophy is much like that of the late Samuel Gompers and the leaders of the Civic Federation.

Whether in health, transportation, public utilities regulation or other forms of government action, we need much more expert service and much less "government by voting." This is a conclusion with which most of his readers will heartily agree.

Mr. Requa has left untouched one of the most extensive and difficult fields of regulation, namely, distribution and trade practices. Some of our strongest efforts are now being put forth here and the light of research is especially needed. Nor does the book touch on the various efforts of government to provide safety and health for the people. The many recent attempts to regulate by means of taxation are also unnoticed. The author's main thesis, "the less government the better," is a familiar and popular one and he develops it in an interesting and attractive way. The book will serve as a good reading reference for government classes, also for the general reader and debater. Side by side with it, there should be placed in the library a brief for government regulation, in which some of the favorable influences and results of social control might be set forth.

The author's style is interesting and readable, his sincerity is apparent, and his desire to render both our government and our productive processes more effective is indicated on every page.

JAMES T. YOUNG.

University of Pennsylvania.

The Statistical Work of the National Government. By LAURENCE F. SCHMECKEBIER. The Institute for Government Research, Studies in Administration. (Baltimore: The Johns Hopkins Press. 1925. Pp. xvi, 574.)

The volume is a complete and much needed handbook of reference for the statistical material made available by the national government, of which the more important categories are population in its general and special aspects; vital statistics; wages and hours of labor; agricultural, mining, and manufacturing activity; domestic and foreign trade and transportation; prices; public finance, banking, and national income, as well as selected data for foreign countries.

The book is designed "to make known what the national government has done and is doing in the way of collecting and publishing information

of a statistical character." It is purposely a statement of fact without critical comment, except where specific observations on methods and scope are included to show the extent to which the data described are subject to limitations with respect to completeness, accuracy, or legitimacy of use for certain purposes. For the most part, such critical observations are directly derived from those which appear in the publications containing the data.

The main classification of the material discussed is by topics, with sufficient cross-references in those cases where the topical segregation has to be somewhat arbitrary, and with sub-classification made by collecting agencies or publications where several of them deal with the same topical material. This arrangement facilitates the location of information on any specific topic.

Under this method of topical classification, it is not so easy to ascertain the complete range of topics included in any one publication or covered by any one agency of the government. An early chapter does mention briefly the essential character of information included in the general summaries periodically published, such as Crops and Markets, Monthly Labor Review, Commerce Yearbook, etc., but a more complete descriptive summary of data to be found in the particular publications would probably increase somewhat the general value of the work. As one purpose of the book, according to the preface, is to provide the facts for a critical analysis of the organization of the statistical work of the government, the omission of any connected survey or summary of the ground covered by each department or bureau is, from the point of view of this purpose, unfortunate, although it does not destroy the usefulness of the volume.

C. H. WHELDEN, JR.

Yale University.

The Life and Letters of James Abram Garfield. By THEODORE CLARKE SMITH. (New Haven: Yale University Press. 1925. Two volumes. Pp. ix, 1-650; 651-1281.)

What Professor McElroy of Princeton University did for Cleveland, Professor Smith of Williams College has now done for Garfield. He has given us a sufficient and final presentation of the man whom he has undertaken to study.

We are presented in these two finely printed volumes with a full and authoritative *Life of Garfield*, in which Garfield reveals himself. Here are his own words and spirit, in a suitably developing sequence, through

his letters, speeches, journals, reports, and reminiscences. Here the inner life of the man is set forth by his commentaries upon himself. We meet here the problems and quandaries that confronted him in his early life as well as during his long public service.

Garfield lived during a period of strife, self-seeking, trickery, and unblushing bossism in American politics. He may be said to have witnessed the nadir of American political corruption. Parties were existing, as Mr. Bryce says, because they had existed; the mill was still turning but there was no grist to grind. Men were out for spoils. Men still living who remember those days can confirm what these volumes fairly portray, that the figure of James A. Garfield rose well above the mists in the valley of humiliation, displaying in an unusual degree traits that were high-minded, generous, and public-spirited.

No man ever left more ample biographical material. There are letters, journals, official papers, military reports, on nearly every aspect of Garfield's life. But his is not a family biography, subsidized for the honor of its subject. The Garfield family papers, upon which the volumes were largely built, were put into the hands of the author with the clear understanding that the results were to be arrived at purely on the basis of historical criticism and truthfulness. Professor Smith has been true to the standards and has set forth a full, plain, unvarnished tale.

Professor Smith sets forth fully the evidence on the controversial phases of Garfield's life for which he was held up to public criticism and denunciation,—his conduct toward General Rosecrans while he was Rosecrans' chief of staff, his relation to the "salary grab" and the "credit mobilier," and to Sherman and the presidential nomination in 1880:

Garfield was charged with betraying Rosecrans and causing his removal after Chickamauga by a letter to Chase. Garfield maintained silence for years for Rosecrans' sake. The full record is here. That Garfield was a faithful friend, and that Rosecrans acted rather stupidly, showing weakness and vanity, seem well sustained by the evidence.

As to the "salary grab," it is clear that Garfield opposed it in the House committee and in the conference committee, but that, when over-ruled, he signed the conference report and as chairman of the appropriations committee supported the appropriation bill in the House with the "grab" attached. This he felt to be his duty since he was responsible for getting the appropriations through and avoiding an extra session. He then refrained from defending himself for fear of reflecting upon his colleagues who thought that their votes for a higher salary were justified.

As to the "credit mobilier," the full story is told. The biographer reveals some tactless blunders on Garfield's part, in borrowing money from Oakes Ames and in his silence under Ames' reversal of his first testimony,—a blunder that reacted against him to the end of his days and has passed into history. Unfortunately for Garfield, the investigating committee of Congress having heard both Ames and Garfield adopted Ames' version. Professor Smith presents the unfavorable judgment of others, including the representations of Garfield's political enemies and the bitter attacks of Dana of the *New York Sun*. On the whole, Garfield comes out with temporary injury to his reputation but with nothing worse than mistaken confidence and errors of judgment resting against him.

Garfield as a lawyer; as a parliamentary leader; as a public man; the kind of a man he was in the opinion of the men who knew him best; as a writer; as a compromiser and conciliator; his conservatism, as shown in his indisposition to accept new "movements" and "reforms," such as woman's suffrage and prohibition; his judicial temperament; his open mindedness as a thinker; his services to education, at Hiram, at Hampton, at Williams, and toward the bureau of education; as a man among his family and friends; as a candidate for president; his cabinet-making; his final contest with Conkling; and the tragedy of his death,—all these themes are presented by the biographer with fullness of interest and enlightenment.

The volumes are a useful source for the historical reader. In interest, in fairness, in fullness of information, the chapters on Garfield's nomination for the presidency and his feud with Conkling leave nothing to be desired. The contemporary political leaders—Blaine, Conkling, Butler, Morton, Sherman, Allison, and others—and their contributions to the politics of the time, are judicially estimated and vividly presented.

We see in this important *Life* a figure of first-rate importance in his time, and here is a biography well worthy of its theme. It is by such a work as this that popular interest, as well as scholarship in American history, are served.

J. A. WOODBURN.

Indiana University.

Jefferson and Hamilton. By CLAUDE G. BOWERS. (Boston: Houghton, Mifflin Company. 1925. Pp. 531.)

"Historians who write in aristocratic ages," according to de Tocqueville, "are wont to refer all occurrences to the particular will and char-

acter of certain individuals. . . . When the historian of aristocratic ages surveys the theater of the world, he at once perceives a very small number of prominent actors, who manage the piece. These great personages, who occupy the front of the stage, arrest attention, and fix it on themselves; and whilst the historian is bent on penetrating the secret motives which make these persons speak and act, the others escape his memory." On the other hand, historians who live in democratic ages, according to de Tocqueville, exhibit precisely opposite characteristics. They ascribe everything to "great general causes." "Most of them attribute hardly any influence to the individual over the destiny of the race."

Mr. Bowers is an admirable specimen of the aristocratic historian. Readers of his *Party Battles of the Jackson Period* will know what to expect in his latest production, and they will not be disappointed. His *Jefferson and Hamilton* is a masterly study of the influence of personality in politics. The analyses of the leading characters, especially those who play the title rôles, are done with consummate art. To the general reader, who has been surfeited in recent years with the one-sided productions of Hamiltonian hero-worshippers, Mr. Bowers, who is more partial to Jefferson, will seem delightfully fresh and stimulating. To the student of political science, who, though devoted to statistics and "great general causes," as befits a democratic age, appreciates the importance of personality in politics, this intimate account of the long struggle for supremacy between Jefferson and Hamilton furnishes a wealth of materials.

But the flippant critic, if one such were to appear, would surely inquire: Who is this fellow, Washington, of whom the author from time to time makes casual mention? At the very beginning of the book Mr. Bowers portrays him as he appeared at state dinners, "cold, serious to melancholy, silent," and tells, on the authority of Maclay, how he sat after dinner and "played on the table with a knife and fork like a drum stick." And there Mr. Bowers leaves him at the end of chapter one. We suspect that George Washington played on more important things than tables and used more powerful instruments than knives and forks. Perhaps it is an ineradicable defect of the aristocratic method of writing history that there is room for only a few leading characters in a single volume. If so, we must hope that Mr. Bowers will turn his rare talents to the task of giving us another volume, in which the unique personality of Washington, now in danger of fading into obscurity

will be restored to its proper place among the *dramatis personae* of our heroic age.

A. N. HOLCOMBE.

Harvard University.

British Politics in Transition. By EDWARD MCCHESEY SAIT and DAVID P. BARROWS. (Yonkers-on-Hudson: World Book Co. 1925. Pp. xvi, 319.)

This book is offered as an aid to the study of politics by the case-method. It consists of "readings" on British government and parties, selected to a slight extent from parliamentary debates and other official documents, but mainly from newspapers such as the *London Times* and the *Manchester Weekly Guardian*, and even from biographies and other well-known books. The extracts are grouped under eight main heads, as follows: the monarch, the cabinet, the civil service, the electorate, the House of Commons, the House of Lords, party, and home rule and devolution.

Introductory statements by the authors, although suggestive, consume but little space; so that obviously the value of the book depends upon the wisdom shown in selecting the source-materials and upon the extent to which the collection can be turned to account by students and by miscellaneous inquirers.

On the first score, it may be said that, while probably no two people would find themselves in complete agreement on what should go into a volume of this kind, selection has been made in such a way as to cover a surprisingly long list of significant features of British government and politics without falling into the choppiness which is the besetting sin of source-books. It is naturally the dynamic rather than the more static parts of the constitution and the political system that are treated chiefly; and of these there are few that do not find exposition or illustration in some illuminating passage. Incidentally, users of the book will be brought into touch with most of the important current media of information and opinion on British public affairs.

How well the second test will be met, *i.e.*, the practical usefulness of the book, especially in the college courses for which it was prepared, remains to be seen. Though less in vogue than fifteen years ago, source-books are used; it is possible to get college students to understand that first-hand materials are legitimate parts of their assignments equally with the text-book. The reviewer can see no reason why the maturer

students who commonly study foreign governments should not find the present volume a highly convenient and useful resource. In getting "readings" actually used, however, even mechanical features count; hence it is to be regretted that the book was not set in larger type.

FREDERIC A. OGG.

University of Wisconsin.

The Government of China (1644-1911.) By PAO CHAO HSIEH. Johns Hopkins University Studies in Historical and Political Science; New Series, No. 3. (Baltimore: The Johns Hopkins Press. 1925. Pp. 414.)

China's New Nationalism and Other Essays. By HARLEY FARNSWORTH MACNAIR. (Shanghai: The Commercial Press, Ltd. 1925. Pp. 398.)

Mr. Hsieh presents the results of a study of the government of China under the Manchus. His first task he took to be an analysis of the government, a catalogue of its institutions and departments, and an examination of the relations among these institutions and departments; in short, the preparation of a sort of handbook to the government of China under the Ch'ing dynasty. Mr. Hsieh has done this part of his work well. But he goes beyond this task of analysis to a study of the tendencies in government under the Manchus. In doing so he enters upon a more difficult task and it is not surprising that he is less successful.

The concluding paragraphs of chapter after chapter of his book deal with the question as to whether the Manchus left China in a worse state than they found her, and left her government less effective. His usual answer is that they did. The Manchu rulers failed to determine satisfactorily the position of such privileged classes as the imperial clansmen and the bannermen. They neglected the civil service and offered degrees and positions for sale to an extent hitherto unknown. The censorship was harshly dealt with and censors were punished in increasing numbers under the successive emperors. The problems of provincial government grew greater under the neglect of the Manchus. Reforms were considered during the closing decades of the dynasty, but such proposed reforms are looked upon as evidence of "insincerity." "One finds," we are told, "very little action, though many preparations and a superabundance of writings and noise."

One may guess that Mr. Hsieh's condemnation of the Manchus is probably just enough in so far as concerns the last century of Manchu

rule, though at times it is supported by statements that seem unfair. But the significant thing is that one is obliged to guess about this matter, since it is impossible to tell what the course of events would have been without the Manchus. For example, Mr. Hsieh condemns provincial government under the Ch'ing dynasty; but the problem of the relation of the provinces and central government to each other is, as Professor MacNair points out, one of the outstanding difficulties of the republic. The Manchus, we are told, ought not to have permitted officials to hold offices concurrently; but this, as Mr. Hsieh admits, is common in republican China. He disapproves of the control of opinion and of thought under Manchu rule, the turning of education into a means of preferment, and the suppression of political leadership. It is plain that Mr. Hsieh deals with matters that lie deeper than the consequences of Manchu misrule. He ought to have made allowance for this in his estimate of Manchu government.

Mr. MacNair is an American who has been for more than a decade professor of history and government in St. John's University, Shanghai. He has written other things about China, among them a study of the Chinese abroad, and his interest in this subject is shown in more than one of his essays. In this volume he has brought together a number of his contributions to the *China Weekly Review* (Shanghai), of which he is contributing editor, and to other Far Eastern periodicals.

Mr. MacNair is interested, as is Mr. Hsieh, in observable tendencies in Chinese politics and he writes of China today. In one of his essays he ventures certain generalizations, pointing out that under the republic both the presidential and the parliamentary forms of government have failed; that the provinces have drifted away from the control of the central government; that there is a growing interest in public affairs among women; and that attempts are being made in certain centers to bring about better municipal government. From the other essays one is able to add that there is a growing feeling of nationalism in China and that no one can see the end of the present political chaos. "China is often likened," we are told, "to a whirlpool whose ceaseless sucking currents draw toward its center all objects within a wide radius. There seems to be no cause for the motion, no object, and no constructive result."

Such subjects as the white man's feeling of superiority, the perennial attack upon the returned student, and the position of the missionary are dealt with in a spirit of fairness and of willingness to present both sides. As an American living in China Mr. MacNair is much interested

in China's foreign relations and in American policy in that country. He does not belong to the school of white supremacy, nor to the equally sentimental school of those who use indiscriminate praise of all things Chinese to express their critical attitude toward the white man and his institutions. He holds to a middle course. Mr. MacNair's essays are of uneven quality and some are obviously occasional writings. Most of them are worth the perusal of the American interested in China, for their author has that rare virtue of not pretending to know the answers to the questions presented by the unhappy political state of China today.

C. F. REMER.

Williams College.

County Government and Administration in Iowa. Edited by BENJAMIN F. SHAMBAUGH, Applied History, Vol. IV. (Iowa City: State Historical Society of Iowa. 1925. Pp. vi, 716.)

This fourth volume in the series of studies in government, issued under the general term of Applied History by the State Historical Society of Iowa, is the most comprehensive and thorough study of county government in any of the American states yet published. It includes eighteen chapters by eight authors as follows: the first and last chapters on the Definition of the County in Iowa and Reorganization of County Government in Iowa by Kirk H. Porter; chapters 2 to 4 inclusive on County Boards of Supervisors, the County Auditor, County Treasurer and County Recorder by Jacob VanEk; chapters 6, 7, and 11 on the Clerk of the District Court, the County Attorney, and the Administration of Justice by James R. McVicker; chapter 8 on the County Sheriff by William A. Jackson; chapters 9, 10, and 15 on the County Coroner, the County Superintendent of Schools, and Drainage Districts by Jay J. Sherman; chapters 12 and 16 on County Welfare Work and County Administration of Health by Earl S. Fullbrook; chapters 13 and 14 on the County Administration of Highways, and Taxation and Finance by Ivan L. Pollock; chapter 17, County and Elections by George F. Robeson. Professor Shambaugh, the general editor of the series, has written a brief introduction. A lengthy chapter on Historical Backgrounds of the County in Iowa by Ivan L. Pollock, omitted for lack of space, was published in the *Iowa Journal of History and Politics* for January, 1925.

The various chapters by different authors have been prepared in accordance with a general plan. They are based on a thorough analysis

of the constitutional provisions and statutes of Iowa, supplemented by material from judicial decisions, official reports by state officers, and to some extent by data from local reports and personal examination of conditions in particular counties.

On the whole, county government is believed to function about as well in Iowa as it does anywhere in the United States. The possibilities of improvement, however, are recognized and proposals for reorganization are made, involving the appointment of most of the present elective offices, the abolition of the coroner, and the establishment of a civil service commission. There is also a brief discussion of home rule, county charters, and county city consolidation.

As with the other publications of the State Historical Society of Iowa, the typographical and mechanical work of the publication is done in a first-class manner. An extended list of reference notes is printed at the end of the volume, followed by a good index.

JOHN A. FAIRLIE.

University of Illinois.

BRIEFER NOTICES

The World Court by Antonio S. de Bustamente (Macmillan, pp. xxv, 379) is of especial interest because it appears at a time when the question of joining the Permanent Court of International Justice is a matter of large public concern in the United States. The author is not only a distinguished scholar and teacher of international law but he is also one of the judges of the World Court, which helps to make the volume the most authoritative first-hand account of the tribunal that has appeared in English. Judge de Bustamente devotes the first 111 pages to a discussion of the historical antecedents of the court and the work of the Paris Conference and the Advisory Committee of Jurists. The remainder of the volume is taken up with an exhaustive description of the organization of the court; how the court is paid for and what it costs; its jurisdiction; its procedure; the extent to which the court has sanctions; its function in rendering advisory opinions, and a review of the decisions that have been actually handed down up to August, 1925. The concluding chapter is an appeal to the United States to adhere to the Permanent Court instead of joining a movement for the creation of a new court. "Experience," writes the author, "shows that the execution of judgments in suits between individuals depends in most cases on the nature of the individuals. Nations are litigants of the first rank; the implacable eye

of public opinion and of history is fixed upon them now and forever. For this reason law and justice often find that it is public opinion, the most intangible and yet the most powerful of human forces, that gives them their irresistible authority." The book is translated by Elizabeth F. Read under the auspices of the American Foundation maintaining the American Peace Award. There is a useful bibliography of thirty pages, but unfortunately no index.

The memoirs of Viscount Grey, recently published under the title *Twenty-Five Years, 1892-1916* (Frederick A. Stokes Company, pp. xxx, 331; ix, 352) make an interesting narrative and throw some new light upon the diplomacy of the war period. There is an excellent account of the way in which the Anglo-French entente developed, and a full discussion of British-American relations during the early war years, in the course of which Viscount Grey reveals some important things which were not known to the public in those days. In this connection he publishes the text of the confidential memorandum presented to him by Colonel House giving the peace terms which President Wilson had formulated in the earlier stages of the great conflict. There is a good deal of interesting comment on all sorts of diplomatic matters, ranging from Persia to Japan, and a spirited defense of the old diplomacy. There was nothing the matter with the old diplomacy, Viscount Grey believes, except the lack of honesty on the part of some who had to do with it. Whether the new diplomacy will be any better must depend on the sort of diplomats that the various countries employ.

College and State: Educational, Literary and Political Papers (1875-1913), by Woodrow Wilson, edited by Ray Stannard Baker and William E. Dodd (Two vols., New York: Harper & Bros., 1925. Pp. xx, 521; ix, 523) is the title of the first two volumes of the authorized edition in six volumes of the public papers of Woodrow Wilson. The editors present in the first two volumes a selected group of Mr. Wilson's writings and speeches in chronological order from the paper on Bismarck, published in 1877 when he was a sophomore at Princeton, down to his Speech of Acceptance of the Democratic nomination for President in 1912. The other volumes in the series are to contain the more important of his later papers, messages, and speeches. None of the papers in the first two volumes is contained in any of his published books. Most of them were published in various periodicals and are now for the first time brought together in a form for convenient study. They relate to three main fields of interest: politics or government, education, and religion.

The editors have done their work carefully, and the two volumes will be useful as showing the development of Mr. Wilson's intellectual views and sympathies in these fields down to the time of his election to the presidency. It is a curious fact that one of the earliest papers, entitled "Cabinet Government in the United States" was published in 1879 in the *International Review* of which Henry Cabot Lodge was at that time the editor. The papers which are probably of most permanent interest and value to students of political science are: "The Study of Administration" (1887), "Democracy and Efficiency" (1901), "The States and the Federal Government" (1908), and "Hide and Seek Politics" (1910). The editors have contributed a short introduction. There is also an elaborate bibliography and an index.

J. M. M.

Mr. William Allen White of Kansas seems to have become, though not by special appointment, the biographer of the presidents. His book of a year ago on Woodrow Wilson has now been quickly followed by another on *Calvin Coolidge* (Macmillan, pp. 252). It is significant that a chief executive should have at least four biographers within as many years. Mr. White begins his biographies with a thesis. In Wilson's case the thesis was that Scotch-Irish ancestry accounted for it all; in the present instance the thesis is that "Calvin Coolidge in the White House is only the little boy from Vermont." On this is built what the author calls neither "a formal biography nor a biographical history." It is a running commentary on the President's career, with the facts stated accurately in some cases, but not in all—in the narrative of the Boston police strike, for example. Still, this biography is most readable, like everything else that comes from the Emporia sanctum.

A Political and Social History of the United States by Professors H. C. Hockett and Arthur M. Schlesinger has been brought out by the Macmillan Company (2 vols., pp. 438, 576.) The first volume, by Professor Hockett, covers the period 1492-1828, while Professor Schlesinger's volume deals with the subsequent ninety-seven years of American history. The major emphasis in both volumes is on political development, but the authors have kept in mind, and have successfully endeavored to point out, the responsiveness of political movements to social and economic conditions. The distinguishing feature of these two volumes, indeed, is the constant emphasis that has been placed upon what Professor Schlesinger terms the "great dynamic currents" in national life. These main currents are not peculiar to the United States,

but have been running strong in Western Europe as well; hence the authors have set out to narrate the story of American political development as one phase of world evolution. This, again, gives the work a distinctive character and an almost unique interest to students of political science. These two volumes are worthy of especial attention.

The thesis of Mr. Frank Lawrence Omsley's *State Rights in the Confederacy* (The University of Chicago Press, 1925, Pp. x, 290) is simple. The contention is made that the downfall of the Southern Confederacy resulted from internal rather than from external forces, and that of the latter the most important was the lack of unity caused by extreme state-rights sentiment in the Southern states. It may be asked with some pertinence whether the suggested cause is not itself the cause of many of the internal forces amongst which it is listed as the most important; but the contention arouses interested anticipation of the evidence to follow. The body of the book consists principally of facts and figures derived from a careful study of the primary sources. They show how the Confederate government was obstructed by the states, principally through their governors, in its effort to secure adequate troops, arms, and supplies. There is a detailed account of the long series of scarcely edifying quarrels with regard to such matters as conscription, the suspension of the writ of habeas corpus, and the impressment of property.

The sixth volume of Professor Edward Channing's *History of the United States* (Macmillan, pp. vii, 645) deals mainly with the Civil War, or, as the author prefers to call it, "The War for Southern Independence." The chapters are by no means devoted in their entirety to the operations on land and at sea. Much attention is given to parties, politics, and politicians, both north and south. There is much that is new and interesting on the government of the Confederacy. Like the author's preceding volumes, this one is documented with great care and is written with a scrupulous regard for accuracy even in little things.

G. P. Putnam's Sons announce the forthcoming publication of several volumes on British administration to be known as the Whitehall Series. Of these the first two have appeared, namely, a volume on *The Home Office* by Sir Edward Troup and one on the *Ministry of Health* by Sir Arthur Newsholme. Other monographs on the Admiralty, the War Office, and the India Office are in preparation. The two initial volumes set a high standard and give promise of a notable series. Sir Arthur Newsholme's book, for example, sets forth the history of the public

health services, explains the work of health administration, describes the organization of the ministry of health and sets forth clearly every phase of this ministry's work. The whole story, logically and clearly told, is presented in a volume of less than three hundred pages. Students of English government will find these books invaluable.

Professor Albert B. White has brought out a new and much-altered edition of his *Making of the English Constitution* (Putnam's, pp. xxx, 461). The alterations not only bring the book into harmony with present-day scholarship in English constitutional history but provide it with many useful aids to teaching. These include a good bibliography, many explanatory footnotes and some excellent suggestions for collateral reading. Since its initial publication, more than seventeen years ago, Professor White's volume has been of notable service to students of the subject and has become so widely known that a statement of its scope would seem to be superfluous here. The present revision has greatly enhanced its value.

Studies in the Constitution of the Irish Free State (The Talbot Press, Dublin, pp. xxiii, 244) by J. G. Swift MacNeill is an authoritative volume containing the text of the Irish Free State constitution and of the articles of agreement for the treaty between Great Britain and Ireland in accordance with which the constitution was drafted, together with a commentary on the constitution, article by article. No competent scholar knows more about the antecedents of the Irish constitution and the purposes of its framers than Professor MacNeill, who has rendered an invaluable service to scholarship by passing on his knowledge in this illuminating commentary.

The Continent of Europe by Lionel W. Lyde (Macmillan, pp. xv, 456) is a book that deals with the twilight zone between geography and political science. Emphasis is laid on the essential individuality of the whole continent, but the various political units are dealt with in detail. There are chapters on regional relations, for example, and on the control of communications, which treat of Europe as a whole. The book contains a vast amount of geographical, political and economic data, all put together in a most orderly form. There are several excellent maps.

A new and much-revised edition of President A. Lawrence Lowell's volume on *Greater European Governments* has been published by the Harvard University Press (pp. 341). About one-third of the book is devoted to Great Britain, a third to France, while the balance is divided

among Italy, Germany, and Switzerland. The narrative has been thoroughly revised and brought up to date. An excellent chapter on the new German constitution has been inserted. As a general survey of the leading European governments this book has much value.

Rodney L. Mott's *Materials Illustrative of American Government* (Century Co., pp. xi, 397) is designed to supplement the standard textbooks on the government of the United States. It includes materials of a widely-varied sort—documents, laws, treaties, vetoes, judicial decisions, charters, and official reports. Taken together, these make up a sort of case-book which can serviceably be used to supplement and to invigorate work based upon a text. The choice of illustrative material has been made with much skill, and the book seems well adapted to the purpose in view.

Three other recently published aids for the study of governmental problems are: *Essentials of Government*, a Study Program, by O. C. Hormell (Bowdoin College Bulletin, pp. 46); *A Working Manual of Civics*, by Milton Conover (Johns Hopkins Press, pp. 80); and *A City Planning Primer*, by G. E. Lomuel and F. G. Bates (Bulletin of Purdue University, pp. 30).

A Syllabus on International Relations by Professor Parker T. Moon is issued for the Institute of International Education by the Macmillan Company (pp. 276). It is a very comprehensive and "well-arranged outline—by topics and by countries—covering not only the political, but the economic and social phases of internationalism. The syllabus has been designed for use in a full-year college course (85 classroom hours) on international relations, but the author has included schedules for use in half-courses as well. The work is abundantly supplied with definite references, making it a most serviceable addition to our teaching apparatus.

The Senate and the League of Nations by the late Senator Henry Cabot Lodge (Scribner's, pp. 424) is a contribution to our knowledge of a perplexing era at Washington. The first seven chapters deal with the Senate's attitude toward various questions of foreign policy before the armistice; the rest of the chapters are concerned with its action on the covenant and the treaty. The author's own discussion occupied only half the book, the remainder being taken up by five long appendices, mainly speeches and debates. The volume is, of course, a defence of Senator Lodge's own attitude and that of his fellow-irreconcilables in

opposition to the Wilsonian foreign policy, but neither in logic nor in style is it up to the Lodge standard of earlier days.

Various addresses delivered by the Hon. Charles E. Hughes during his term as Secretary of State (1920-1924) have been brought together in a volume entitled *The Pathway to Peace* (Harper's, pp. vii, 329). Somewhat more than half the addresses deal with various phases of foreign policy, including some speeches on Latin-American relations. Among the latter are two important speeches on the Monroe Doctrine, its history and its implications. The last hundred and fifty pages of the book are devoted to addresses of a legal and biographical character, including a fine tribute to the memory of Lord Bryce.

International Law Decisions and Notes 1923 (pp. 224) is a compilation by Professor George Grafton Wilson of decisions of various prize courts, of special interest and value to officers of the naval service, which have been considered at the Naval War College. These include cases dealing with the ownership, charter, and service of vessels; armed vessels, search in port, enemy vessels, Japanese prize cases, and mixed claims commissions.

The Lawless Law of Nations is a title that can hardly help catching the eye. The book is by Sterling E. Edmunds (John Byrne and Co., pp. 449). The author regards international law as "the last bulwark of absolutism against the political emancipation of man" and devotes his four-hundred-odd pages to upholding this thesis. By way of elucidation it may be explained that this antipathy to the law of nations arises from a dislike of the "sovereign state." If man is to achieve the dignity of a free citizen he must "strip his governments of their external sovereignty."

Another book which takes international law severely to task is A. V. Lundstedt's *Superstition or Rationality in Action for Peace* (Longmans, pp. 239). The author argues that "the so-called law of nations" is nothing but a baleful phantom—like Walter Lippman's "public." He contends that international legalism is merely a survival from primitive superstitions which Hugo Grotius consolidated and palmed off on the world three centuries ago. However, the book does not deal entirely with international law. It is equally critical of the present science of law within the national boundaries. The author is a Scandinavian and a disciple of Hägerström.

The Follies of the Courts by Leigh H. Irvine (Times-Mirror Press, Los Angeles, pp. 273) is a scathing criticism of American judicial organization and procedure. It contains a rare assortment of items, culled from every conceivable source, all of them dealing more or less with the lapses of our judicial system. There are quotations from all and sundry; indeed, the book is largely made up of quotations. The author's condemnation of American procedure is equalled only by his praise of the English judicial system. His pen is rather too lively for a subject so serious as this.

One of the earliest and best-known of the now fashionable orientation courses is that at Columbia, called "An Introduction to Contemporary Civilization." With a portion of its needs particularly in mind, three instructors therein—Rexford Guy Tugwell, Thomas Munro, and Roy E. Stryker—have now drawn on their experience to produce *American Economic Life* (Harcourt, Brace and Co., pp. xiv, 633). The volume should prove generally useful, for, however one may differ with the authors over matters of emphasis and point of view, the book is still a welcome effort at objective description of actual economic circumstances and institutions, for the use of beginning students of economics. Problems are raised, and the need for improvement emphasized, but while reform programs are discussed, the responsibility for the solution of the problems and for the attainment of the improvement is definitely placed on the shoulders of the young readers—which is as it should be.

The Present Economic Revolution in the United States by Thomas Nixon Carver (pp. viii, 270) is the latest addition to Little, Brown and Company's series of books dealing with current national problems and movements. Professor Carver points out in a clear and interesting fashion that an economic development is now under way which will wipe out the distinction between laborers and capitalists in the United States. In his opinion laborers are rapidly becoming their own capitalists, as indicated by the growth of savings deposits, investments by laborers in the shares of corporations, and the establishment of labor banks. "Unless all signs fail we are about to give the world the only great demonstration it has ever had of the practicability of the twin ideals of liberty and equality."

Scoville Hamlin's volume on *Private Ownership or Socialism* (Dorrance and Co., pp. 207) is not the sort of study that its title might indicate to the casual scanner of the book lists. It is a general disquisition on over-

taxation, on tariff protection, on heredity and environment, and on the "Representation of Income in Government," all tending to prove that we need "a constitutional bulwark to stay the floodtide of socialism at this time." There is a good deal of statistical discussion in the book, but not much of it is related to the main theme.

Among recent Duke University Publications of interest to political scientists are Professor Alpheus T. Mason's *Organized Labor and the Law* (265 pp.) and Professor E. Malcolm Carroll's *Origins of the Whig Party*. (260 pp.). The former volume is written chiefly "to explain, to clarify, and not to justify, the reasoning of the courts in labor cases." The author's point of view is revealed by the remark that "the rights of labor are determined quite as much, if not more, by the social and economic philosophy of the judges as by so-called immutable principles of the law." The common law, he points out, as applied in the states and incorporated in the anti-trust acts, is "largely a creation of American judges." Professor Carroll's volume deals with the strategy of the party leaders during the period from 1828 to 1840, emphasizing the differences between the successful Whig campaign of 1840 and its unsuccessful predecessors. Both volumes are well documented.

The Formative Period of the Federal Reserve System (Houghton Mifflin Co., pp. x, 320) is by W. P. G. Harding, an original member of the Federal Reserve Board, its Governor from 1916 until his retirement in 1922, and present Governor of the Federal Reserve Bank of Boston. The book is valuable as an inside account, by the man most able to give it, of the organization of the Federal Reserve Board, and of its problems, policies, and operations during that critical period of its infancy which was made doubly critical by the influence of the World War. Most interesting are Mr. Harding's shrewd and convincing replies to many of the criticisms levelled, in recent years, against the board and its personnel. The author is particularly opposed to any assumption by the board of responsibility for the maintenance or control of price levels.

Recent studies of the National Industrial Conference Board include a special report on *Proposals for Changes in the Federal Revenue Act of 1924* (pp. 44), and monographs on *Public Regulation of Competitive Practices* (pp. 281) and *Industrial Pensions in the United States* (pp. 157). The proposed changes in the national taxes include a maximum surtax of 20 per cent, a normal tax of one per cent on the first \$4,000 of net income, and the immediate repeal of the federal estate tax. The last

two proposals go further than the bill now before Congress. The monograph on Public Regulation of Competitive Practices deals largely with the federal trade commission and the legislation of 1914, with chapters discussing the regulation of price policies, sales promotion policies and trade regulation policies, and on public policy and possible standards.

M. C. Burritt's *County Agent and the Farm Bureau* (Harcourt, Brace, pp. xvi, 269) is divided into two parts. The first describes in detail the work of the county farm agent and the farm bureau. The second deals with the rise and growth of these agencies—a somewhat unusual method of presentation. There is a good deal in the book that will interest the student of actual government, but there would have been more if the author had seen fit to set forth in detail the relation of the American Farm Bureau Federation to the agricultural bloc in Congress and to national legislation. This interesting phase of the whole movement is left almost wholly untouched.

A foremost student of social psychology and of sociology in its psychological aspects, Professor Charles A. Ellwood has brought his earlier views down to date, synthesized them, and given them definitive statement in *The Psychology of Human Society* (D. Appleton and Co., pp. xvii, 495). The author reiterates his distinction between social psychology, which has to do with the individual mind, and "psychological sociology," which is "the study of the psychic processes involved in the origin, development, structure, and functioning of group life," i.e., a matter of collective, not individual behavior. The sociological importance of culture and habit, as opposed to instinct, is emphasized, and the "fundamental problems" of social unity, social continuity, and social change—gradual or abrupt—are discussed. Government and law are treated as important means of social control, likely, in the opinion of the author, to be more, rather than less, needed in the society of the future.

Social Problems and Education by Ernest R. Groves (Longmans, pp. 457) is a book that deals primarily with those social problems which are related to the work of the schools—juvenile delinquency, mental hygiene, divorce and family responsibility, and so on. There are, however, some chapters on topics which have no direct educational implications. There is one, for example, on public opinion which the author defines as "the convictions that are held by most, if not all, of the group and that are felt by each person to have behind them the

approval of the group"—a definition which surely leaves something to be desired. There is also a long bibliography of references on this subject, which strangely omits all mention of the work done in this field by Bryce, Lowell, Merriam, Wallas, Hall, and Follett.

A manual of study and reference on various social problems, by Howard W. Odum and D. W. Willard has been published by the University of North Carolina Press under the title *Systems of Public Welfare* (pp. 302). Students of government will be interested in the chapters on "Attainable Standards for State Departments" and on "The City Plan of Public Welfare."

Social Problems of Today by G. S. Dow and E. B. Wesley (Thomas Y. Crowell Co., pp. 337) is based upon a useful book by the first of these two authors, published some years ago on *Society and Its Problems*. It embodies an attempt to make sociology an interesting study for high school students.

A timely work on *The State Police* by Bruce Smith (Macmillan, pp. ix, 282) describes the organization and work of the forces in eleven states. It is a careful study, based upon the statutes, executive orders and other official data. Some attention is given to municipal police administration also, inasmuch as "in the larger sense the police problem is one problem." Students of state administration will find this book very useful.

Louis A. Frothingham has revised his *Brief History of the Constitution and Government of Massachusetts* (Houghton Mifflin Co., pp. 154), which appeared first in 1916. The volume explains the government which existed in Massachusetts during the colonial period, outlines the work of the constitutional conventions of 1780, 1820, 1853, and 1917, and describes the essential features of the present-day government. The new material in the revised edition is found largely in an additional chapter dealing with the changes made in the constitution and government of the commonwealth as a result of the constitutional convention of 1917. The chapter on legislative procedure in Massachusetts is the best short account of the subject, and the book as a whole serves a most useful purpose since it explains the evolution of the oldest written constitution now in operation and contains material which is not found in any other one volume.

An important and interesting volume on *Municipal Budget-Making*, by R. Emmett Taylor, has been printed by the University of Chicago

Press (pp. xiii, 233). It includes a comprehensive study of the subject, well-arranged and clearly presented, without an undue cluttering of detail. The matter of budget-making is a technical one, of course, and the author has not set out to denude it of its difficulties; but he brings each phase of the subject within the range of citizen intelligence. Not the least useful feature of the book is the excellent bibliography. Taking it in conjunction with Mr. A. E. Buck's recent monograph on the same subject, the student of municipal government is now well equipped on budgetary procedure.

Frederic C. Howe, whose books on various subjects are well-known to students of government, has recently published *The Confessions of a Reformer* (Scribner's, pp. 352). It contains chapters on the author's political experiences, both early and late, on Tom Johnson and Mark Hanna, on making laws at Columbus, and on guarding immigrants at Ellis Island. Toward the end of the volume there is a significant chapter on "unlearning." It is interesting, by the way, to hear a "reformer" pay his respects to civil service reform in the way that Mr. Howe does on pp. 255-256 of this book. In Washington, he says, "it would be better if we had the spoils system."

In the *Life of Elbert H. Gary* (Appleton, pp. xii, 361) Miss Ida M. Tarbell has turned her attention from oil to steel. Biographical in form, this volume is in truth a history of the steel industry during the past half century, and more particularly a history of the United States Steel Corporation with which Judge Gary has been so intimately connected. It is an authoritative biography and history combined, for Miss Tarbell has had access to all the records, many of which are under lock and key at the corporation's headquarters. Needless to say it is also a readable book, replete with comments and observations which the author's familiarity with contemporary business and industrial history has enabled her to make.

The autobiography of Samuel L. Powers, for many years a congressman from Massachusetts, has come from the press with the title *Portraits of a Half Century* (Little, Brown, and Co., pp. 285). Mr. Powers disclaims all intent to write an autobiography, yet it is his own portrait that inevitably stands out most clearly in these pages. Many other figures come and go, however, as the book runs on. There are interesting sidelights on national and local politics, on the ways of politicians, on presidents and governors, and on life in Washington.

The progressive, intellectual, liberal side of New England Puritanism, so often overlooked, has been brought to the front in a well-written biography of *Increase Mather* by Kenneth B. Murdock (Harvard University Press, pp. xiv, 442). Mather was the foremost among American Puritans, a vigorous theologian, and an influential man of letters. He not only had progressive ideas but knew how to expound them effectively. Those who have been scornful of the Puritans, and inclined to belittle their influence upon the shaping of American ideals, will find some surprises in this biography.

The Diaries of George Washington, edited by John C. Fitzpatrick (4 vols., Houghton Mifflin Co.), represents the first complete issue of Washington's day-by-day jottings, from the outset down to the last words that he wrote. The entries extend, with a few interruptions, from 1748 to 1799. They give an excellent picture of social life in pre-war Virginia, and of daily routine at Mount Vernon, but contain surprisingly little on any phase of politics. The volumes are well supplied with useful notes.

Released for Publication by O. K. Davis (Houghton Mifflin Co., pp. 468) is an addition to our growing stock of Rooseveltiana. It is mainly about Roosevelt and in praise of him. The author is an outstanding journalist of wide experience, political and otherwise. He writes as a newspaper man, featuring the picturesque, the unusual, and the humorous. There is not a dull page in the book.

Factors in American History, by A. F. Pollard (Macmillan, pp. 315) is the title under which a distinguished English historian has brought together a number of lectures given to British audiences. These lectures deal with tradition, conservatism, nationalism, imperialism, idealism, and other factors which seem to have had a part in the making of American history. The book, as might be expected, is stimulating and suggestive.

E. P. Dutton and Co. have brought out a new edition of the late James Mavor's *Economic History of Russia* (pp. xxxv, 614; xxii, 630), a work which originally appeared just before the outbreak of the war and at once became the standard treatise on the subject, so much so that the first edition quickly ran out of print. In this second edition a new introduction has been added, and a new concluding chapter, but the contemporary economic situation in Russia has not been dealt with. On the other hand, Professor Mavor's second volume is a virtually indis-

pensable source for those who desire to know the background of present-day political or economic organization in the muscovite commonwealth.

The H. W. Wilson Company have added to their handbook series a volume on *Slavonic Nations of Yesterday and Today* (pp. 415), edited by Milivoj S. Stanoyevich. This includes an extended list of articles from various periodicals dealing with the Slavonic race in general, Russia, Poland, Czechoslovakia, Yugoslavia, and Bulgaria. Among the articles the following may be mentioned: The Slavs Among the Nations by T. G. Masaryk; Bolshevism in Theory and Practice by G. H. Crichton; The Future of Poland by Ignace Paderewski; The Czechoslovak Republic by R. W. Seton-Watson; The New Adriatic State by J. Leyland; and Education in Bulgaria by Stephen Panaretov.

The first volume of a four-volume series on the *History of England* by Hilaire Belloc has recently appeared (Putnam's, pp. xiii, 421). The initial volume covers the period down to 1066. About a third of the space is given to pre-Roman and Roman Britain, the balance to the Saxon era down to what the author calls "The End of the Dark Ages." In keeping with Mr. Belloc's thesis that religion is the determining force in social development, much attention is given to the ecclesiastical aspects of this later period. Likewise, the endeavor is made to show a continuity between Roman origins and those institutions which have sometimes been deemed to have a barbaric ancestry. The second volume, soon to appear, will deal with Catholic England in the Middle Ages.

England under the Early Tudors, 1485-1529, by C. H. Williams (Longmans, pp. xviii, 281) is the latest addition to the University of London Intermediate Source Books. It contains numerous documents illustrating the political, ecclesiastical, social, and economic conditions of the time.

Rebel Saints is the rather striking title under which Mary Agnes Best narrates the story of Quakerism in a series of biographical sketches (Harcourt, Brace, pp. xi, 332). There are two chapters on William Penn. The author accounts it one of the great services rendered by the Quakers that they gave to government a liberal education in the art of minding its own business.

André Siegfried's illuminating book on *L'Angleterre d'aujourd'hui* has been translated and published under the title *Post-War Britain*

(Dutton, pp. 314). It contains a fair analysis of the political and economic difficulties with which Britain has been struggling since the war. Attention should be called to the interesting discussion of British governmental institutions and of British political parties, to which topics about a hundred pages are devoted.

Humanism and Tyranny by Ephraim Emerton (Harvard University Press, pp. 377) is a series of studies of Italian writers of the early Renaissance now almost forgotten. There is a general introduction on the fourteenth century, and an introduction to each chapter, preceding the text of the several writers. The latter include "De Tyranno" and Letters in Defence of Liberal Studies, by Coluccio Salutati, "De Tyrannia" and "De Guelphis et Gbellinis" by Bartolus of Sassoferato, The Tyranny of Francesco dei Ordelaffi, and The Ordinances of Albornoz.

A new and revised edition of Victor Duruy's *General History of the World* (Thomas Y. Crowell Co., pp. 931) has been brought out with supplementary chapters which continue the narrative down to 1925. This compendium of world history has been in use for more than seventy-five years and is still as useful as ever. A series of color maps enhances its value.

H. C. Chatfield-Taylor's *Cities of Many Men* (Houghton-Mifflin Co., pp. 312) gives the author's impressions of four great urban communities,—London, Paris, New York, and Chicago. This is not a mere diary of social reminiscences, nor is it a study of architecture and customs. It is a series of sketches in which the author vividly portrays the outstanding figures in the life of these cities during almost half a century. All the chapters are brilliantly written.

The Supercity, by Robert R. Kern (Privately printed, pp. 349) is a work in which the author sets out to delineate "a planned physical equipment for city life." There are discussions of zoning and types of zones, of commercial facilities and public utilities, as well as of city finance and administration. All of it is highly imaginative and takes rather scant account of the practical difficulties.

London Life in the Fourteenth Century by Charles Pendrill (Adelphi Co., pp. 287) is what its title implies. The student of municipal history will find in it some good material concerning London's early streets, the courts, the freedom of the city, and the "liberties" of the metropolis.

RECENT PUBLICATIONS OF POLITICAL INTEREST

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CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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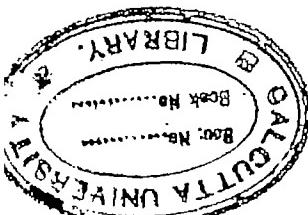
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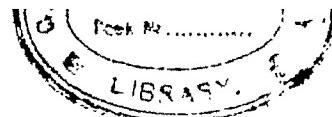
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SOME ASPECTS OF REGIONAL PLANNING

CHARLES A. BEARD

The subject of regional planning now stands high on the calendar of American social thinking. Miss Kimball, in compiling her admirable manual of information three years ago, was able to make a fair display of papers and documents on regional, rural, state, and national planning. Since that time the sheaf of materials has grown substantially in bulk and variety. This increase of interest in the topic was inevitable. As in the world of abstract ideas every attempt to cut through to the heart of a problem lands us in metaphysics, to use the penetrating observation of William James, so in the field of municipal development any effort to follow the filaments of city planning to their roots leads us beyond the immediate urban area into the large and indefinite region of which it is a part. Anyone who has for a moment got away from the political aspects of a specific city government and taken up some particular question, such as transportation, knows how quickly he is carried beyond the legal boundaries of his municipality into its regional, state, national, and even international, relations. If anyone, perchance, has doubts on the point, let him spend a few hours with the 1920 report of the New York-New Jersey Port and Harbor Development Commission. Of course to adepts this is all trite enough, but it is an indication of what must be the inexorable drift in the thinking of those who are concerned with anything more than the decorative aspects of municipal design.

In this process the business of regional planning has passed beyond the realm of speculation. The far-sighted and statesman-like operation of the Russell Sage Committee on the Plan of New York are full of promise and encouragement. The results actually achieved by *ad hoc* bodies such as the Boston Metropolitan Water and Sewerage Commission, the labors of the New York-New Jersey Port and Harbor Commission, the studies of Governor Pinchot's giant power board, and the achievements of Secretary Hoover, in impressing upon industrial engineers the necessity for more efficient coöperation—these and a hundred other events of recent times indicate that the way from speculation to action is not as long as the scoffers imagined. Another straw was tossed upon the wind recently by President Coolidge, a man not accustomed to extravagant reflections. In speaking to automobile men, he was moved to discourse on the "efficiency of great cities as business, industrial, and cultural centers," and in his address he declared that there was "need for concerted, fundamental, and courageous consideration of all the questions involved. . . . They have to do with the elementals of social organization. . . . The physical configuration of our cities, the direction of the mighty currents of the nation's commerce, and the continent-wide distribution of population and industry—these are included among the problems with which you gentlemen are dealing."

And yet, in spite of all that has been said and done, the development of urban planning has unquestionably lagged behind our magnificent technical and industrial advance. We have no doubt erected many impressive municipal buildings and constructed some splendid boulevards and parkways, but where is there a city that may be said to give to its citizens economic efficiency, physical comfort, and aesthetic pleasures that even approach the ideals which our artists and technologists are capable of projecting and executing? Failures to live up to our knowledge lie on every hand. San Francisco had a grand design drafted by Burnham; a great fire made an unparalleled opportunity to put it into execution; but the city was quickly reconstructed on the old lines in the main—so rapidly in fact that within a few years

it was found necessary to tear down new and expensive structures to make room for the civic center which had been long in contemplation. Tokyo had a similar devastating experience; plans for a new city were all ready when the old was destroyed; but to this moment—more than two years after the disaster—it is not certain to what extent the former tangle of narrow streets will be swept away or adequate safeguards provided against a repetition of the holocaust. Washington, planned *de novo*, has never been able to live up to the original ideal. To take an example of narrower scope, New York has been discussing periodically since 1880 the removal of the railway tracks of the New York Central from the streets on the west side of the city, and it can still be said with truth that there has been no fundamental improvement of direct freight terminal facilities in lower Manhattan for half a century. Able men, ingenious men, and earnest men have labored at the task and made little impression upon the physical aspects of the problem. A thousand other examples could be cited to illustrate the amazing lag between our technical knowledge and our capacity to achieve on the basis of that knowledge. Evidently there is need for a scientific study of the forces which advance or hinder the execution of municipal plans.

At the outset, it is wise to remember that the municipal planning movement has grown mainly out of speculations concerning a more aesthetic and more efficient life, rather than out of some primordial urge among the masses toward order and symmetry. Although a certain crude layout of streets was necessary even in the earliest days of our history, the origins of the American city planning movement lie mainly in the realm of the fine arts. One of our outstanding pioneers, Charles Mulford Robinson, laid emphasis principally on the city decorated; poor in spirit was the business man or alderman who did not thrill as he gazed upon designs for plazas, boulevards, and public buildings—ignoring the fact that they were often “diamond crowns for leprous brows.” At Harvard, it seems, interest in city planning has grown out of the study of landscape gardening. More recently, the technologist’s quest for economic efficiency, which Secretary Hoover has made the Holy Grail of our modern Sir Galahad, has figured in

the argument. New recruits have been drawn from that quarter. Any one of the engineers on that wing of the movement can point out enough wastes and follies in any existing system of urban economy to arouse the dullest apostle of "business as usual." To these advocates of urban planning may be added the workers in the field of public health, the housing reformers, and some social philosophers. The list of the zealots is then about complete. So it is hardly too much to say that aesthetics and scientific idealism furnish most of the drive behind the modern development in urban and regional planning. The literature of the subject reflects the predominance of these motives; it is concerned mainly with the aesthetic, legal, and technical aspects, with occasional glances at methods of financing. It seems to be quite generally assumed that any scheme which commends itself to a competent architect or engineer must of its own force command the allegiance of all men good and true.

Nothing could be more illusory. The architect or engineer tries to see material things steadily and as a whole, and ordinarily he has little patience with economics or politics. On the other hand, the people who possess the goods which he proposes to rearrange usually see things in relation to their particular requirements, and they are frequently adepts in economic and political affairs. To this the technician will respond: "Yes, but any sound regional plan will add to the riches and convenience of the community, and enlightened self-interest can be brought to see it." Theoretically, it would seem to be so, but in practice we know that self-interest is not enlightened automatically by the instinct of acquisition, and that instant concern with the bird in the hand is generally greater than remote concern with the bird in the bush. At all events, it is beyond question that our achievement in regional planning lags far behind our technical capacity to design and execute.

For this reason, it seems not untimely to ask for a deeper consideration of the economic forces which may be enlisted for or against the dreams and blue prints of artists and engineers, and the precise social and political modes in which those economic forces operate. In speaking of economic forces I do not refer

to such matters as the industrial activities surveyed by the New York Plan Committee, or the freight facilities so minutely described in the reports of the New York-New Jersey Port Commission, or mere land values in the form usually discussed by advocates of special assessments, excess condemnation, and the single tax. Such topics have already been studied with a great deal of acumen by technicians. I refer rather to subjects not usually mentioned in polite society—to themes that are usually as tabu in academic circles as sex at a Boston tea party—to topics vulgarly known as special interests, private rights—acquired and potential—honest graft, and plain graft. Nor shall I attempt to distinguish between the just claims of special interests and their exorbitant demands, or between honest graft and plain graft. There are always fine shades of distinction which only casuists can resolve to their satisfaction.

The subject, it must be confessed, is full of dynamite. Perhaps only an unfrocked doctor *in partibus infidelium* could discuss it with impunity. Nearly everyone feels insulted when an observer on the side-lines mildly suggests, even in a purely scientific temper, that getting money is the fundamental, central, driving motive in the daily operations of commerce, banking, industry, real estate promotion, and merchandising, to say nothing of the more sacrificial professions such as law, medicine, journalism, teaching, and preaching. From long and bitter experience, I know that an army of vigilant editors lose their tempers whenever the subject is mentioned. And yet we are avowedly, boastfully, a business people engaged in making money. As Ruskin once remarked, if you want to know what the captains of our fate are really after, just ask them to operate on the theory that stockholders do not care about dividends, that white-collar people are indifferent to salaries, and working people are unconcerned about changes in wage schedules.

Only a purist, however, considers the play and the motive ignoble or undignified. There is a tinge of hypocrisy in the modesty that makes anyone blush when economical considerations are mentioned in his presence. But whether ignoble or not, the fundamental aim of people engaged in economic enterprise is to

get money out of it, and anybody who expects to go very far in discovering the nature of modern social forces will have to take note of that basic fact. Could a doctor prepare himself for practice merely by watching the Easter procession on Fifth Avenue, or a bacteriologist equip himself for the purification of water supplies by studying orange blossoms? Natural science made its great forward advance when it climbed down out of the realm of rhetoric into the humble kingdom of organic and inorganic things.

The lesson seems to me to be obvious. The corollary is that regional planners who expect to get far beyond the blue print stage have a serious task before them. It is the task of analyzing and exposing to public gaze, on the one hand, the various economic interests that are likely to gain more money by keeping things as they are or by forcing an anti-social development, and, on the other hand, the economic groups that may be enlisted in virtue of their practical interests on the side of a comprehensive community scheme. The difficulties of such an inquiry are no doubt very great; the data are sometimes elusive and the repugnance to frankness is often baffling. None of our multitudinous research agencies which are busy running to and fro on the face of the earth have yet received any generous bequests for the prosecution of such a study, and the undertaking is beyond the strength and resources of any individual. But I am firmly convinced that until this inquiry is made in a scientific spirit and with meticulous attention to microscopic detail, our so-called social science, of which regional planning is merely one branch, will remain very much in the state in which Harvey found medicine and Descartes and Cavalieri found mathematical science. In the space allotted for this paper, only a few hints can be thrown out to indicate the character of the vast, amazing, and fascinating realm of economic forces open to exploration.

It will hardly be disputed that any important urban plan must have an enormous influence on land values, and that under our system of law and practice the major portion of all increments will accrue to the benefit of the fortunate, the wise, the experienced, the astute, the foresighted, and occasionally, the un-

scrupulous. Take as a single illustration the Central Park plan in New York. Between 1858 and 1873, the city government invested about fourteen million dollars in that improvement, and within those years the value of the property in the three contiguous wards rose seven hundred per cent above the average increase for the city as a whole. Although not all of this increment could be ascribed to the Central Park plan, enough of it could be traced there to make the transaction significant in economics and politics. That operation has passed into history, but it still affords a wealth of materials for the student of dynamic regional planning. Would it not have been illuminating to the citizens of New York in those distant days to have had maps of the Central Park region with the names of the realty owners, mortgagors, mortgagees, and transferees, dummies and all, duly laid before the public for inspection?

Even more striking are the illustrations that may be gathered from the economics of passenger transportation. Every regional plan affects this activity from every angle. Even those superficially conversant with the history of subway planning and construction in New York know that it was extremely difficult for the original promoters to convert an indifferent public to their projects in the first place, that enormous land values were created by the execution of their designs, and that speculation in traction stocks and bonds has been one of the prime factors in the dynamics of planning, construction, and operation down to the latest hour. Two mere bagatelles may be mentioned in passing. Within a short space of time the increase in land values of a single district lying half a mile on each side of one subway extension was \$26,500,000 in excess of the normal rise, and nearly twenty millions more than the subway line in question actually cost. Another bagatelle. One of the transit companies operating within the metropolitan area has outstanding more than one hundred and fifty million dollars worth of five per cent bonds, to say nothing of sixty million in guaranteed stocks, other bonds, and other stocks. Within the past eight years the five per cent bonds have fluctuated in selling value from a figure somewhere around forty to something above seventy. News of one kind or another,

authentic or inspired, will carry them up or bear them down. A thirty point swing means forty-five million dollars in values at least, and a mere ten point vibration, such as we have had within a few months, spells fifteen million dollars. The actual turnover in bonds is enormous and those who sit tight are kept in trepidation. Now what can a landscape gardener, an architect, an aesthete, or an efficiency engineer do in the presence of such a titanic force? Not so long ago, one of these companies spent in "accelerating public opinion," as one of its agents euphemistically remarked, and in fees and commissions of dubious propriety, more money within a brief space of time than the revenues of the American City Planning Conference will yield in a hundred years at the present rate of progress.

In addition to facing the landed interests, large and small, within his district and the local concerns engaged in transportation, the regional planner encounters even more potent forces in the railway companies whose freight and passenger business extends to the ends of this continent. To them the distribution of terminal facilities is a matter of immense significance. Indeed, now that competition in interstate rates is eliminated by federal regulation, the question of efficient terminals has become all the more exigent. A national railway system could be seriously handicapped to the very tips of its lines, and perhaps driven far on the way to bankruptcy, by unfavorable adjustments in the regional plans of three or four great terminal cities. For that reason any attempt to carry into effect a regional project must reckon with the powerful and vigilant interests of the railway companies concerned in it. They can bring effective pressure to bear in state legislatures, in city councils, and on manufacturers and shippers using their lines. They are not to be condemned for doing this. A railway management that does not fight to the last ditch any project likely to deprive it of competitive advantages or firmly resist any proposal likely to affect its earnings adversely—no matter how advantageous the scheme might be to the community as a whole—would be untrue to the trust imposed upon it by the stockholders.

These generalities may also be illustrated by a concrete example, concerning which the present writer has had some personal experience. Every specialist who has studied the freight terminal facilities on the island of Manhattan knows that they are inadequate, and are far behind the advance of modern technology.

In addition, the New York Central, the one railway which has a terminus down in the heart of the island, operates its locomotives on the surface of the streets to the peril of life and limb, to say nothing of smoke and dirt, just as it did fifty years ago. Since 1880, as I have already remarked, the residents of the city have heard periodically of plans for modernizing these freight facilities. Since 1906 the matter has been vigorously agitated. Legislation has been enacted, commissions have been erected, and plans for improvements have been made by the score. But up to the present hour, the physical arrangements of this strategic railway company on the west side of Manhattan remain substantially as they were in the days of Queen Victoria and General Grant. And why?

Among the reasons for this state of affairs there are several of prime significance. They are known in local parlance as the New Jersey railroads—the companies that have their freight terminal facilities in New Jersey and must carry their Manhattan goods across the river by lighters. Influential in that group are the Erie, the Lehigh, the Pennsylvania, the Baltimore and Ohio, the Delaware and Lackawanna, and the Central Railway of New Jersey. They are already handicapped by the lack of a direct entry into Manhattan, and any radical improvement in the facilities of the New York Central would add new competitive handicaps to those already suffered by these companies. The New York Central has long been willing to take its tracks off the streets and modernize its freight facilities and at this very moment it is again preparing to accomplish that design. More than once it has been on the point of realizing its projects, only to be defeated by opposing forces, political and economic, and the fate of its present project hangs in the balance.

Now any regional plan for this metropolitan area must deal with this perplexing problem. Independent engineers who have studied the situation with great care for years seem to be generally

agreed that the only economical solution is a project for bringing all the railway companies into Manhattan by a common trackage and tunnel system. The great regional authority, the Port Commission, urges that solution as absolutely necessary to the life of local commerce and industry. The New Jersey railways agree; it is to their interest to agree. The New York Central dissents; it is decidedly to its interest to dissent. As a background for this battle of the titans is the shifting scenery of politics at the city hall, at Albany, Trenton, and Washington. In saying this I do not question for one single moment the sincerity or honor of any of the gentlemen who play their rôle in this drama. It is their right and duty to defend the economic interests of their constituents, i. e., their stockholders. If they did not, their places would soon be vacant. They are open to no more criticism than lies against the Housatonic River for flowing down hill to the Sound instead of up hill to Lake Champlain. The point is that the regional planner confronts social forces which are as real as those handled by the hydraulic engineer, and it is not likely that he, or the public for whom he speaks—a public that at least has some of the characteristics of Mr. Lippmann's phantom—will advance very far in the conquest of urban chaos until he has applied his theodolite to the realities of his situation.

The regional planner must deal not only with the landed interest, the traction interest, and the railway interest; he must deal with the vested interests of the political gentlemen who govern the numerous communities within the larger metropolitan area. He must face what the fathers faced when they forced the federal constitution on recalcitrant commonwealths dominated by local statesmen with their constituents to represent and their jobs to hold—just as the heads of railway companies represent their constituents and hold their jobs. Now these political gentlemen are sometimes abused by reformers and purists—and frequently by the directors of great business enterprises—but the student of natural science does not abuse them. They, too, are forces with which the regional architect must deal, and they are formidable in numbers.

The Regional Plan Committee of New York tells us that the area which it is compelled to study lies in three states and comprises about four hundred communities, each with its political spokesman of one kind or another. The Port Authority has eight counties or parts of counties in New York under its jurisdiction: New York, Kings, Queens, the Bronx, Richmond, and Westchester, Rockland, and Nassau; and nine counties or parts of counties in New Jersey: Hudson, Bergen, Passaic, Essex, Union, Middlesex, Somerset, Morris, and Monmouth. States, cities, counties, boroughs, towns, villages, and townships, with their cohorts of political representatives, must be considered by this Port Authority in making and executing plans—to say nothing of special commissions and regional bodies for particular purposes. Now each of these geographical districts for which the men of politics must speak has its own set of interests to protect and advance, and if those temporarily in office fail at the enterprise they will lose their jobs and find their places taken by more competent hands. Getting and keeping jobs are in themselves economic operations, more or less inevitably connected with the general processes of public service. The salary roll of political persons likely to be adversely affected by the regional readjustment is as real as the "general purpose account" of a public utility concern.

Space does not permit a more elaborate analysis. Indeed this paper is designed as a hint, not a survey. The only conclusion to be drawn from it is that while engineers and artists are dreaming dreams and seeing visions, the economists should be busy with microscopes.

THE FUTURE OF THE CONSULAR OFFICE

PITMAN B. POTTER

University of Wisconsin

The consulate is an old and a dignified office. Through various vicissitudes the consul has come down to us from the days when, with the dawn of new courage and enterprise, the closing of the Middle Ages saw the revival of international trade and travel in the twelfth and thirteenth centuries.¹ Hence the future of that office must be of considerable interest from an historical point of view, to say nothing of the interest which all of us who expect to do any foreign traveling ought to feel in the fate of the traveler's best friend. All of this is doubly true in view of the fact that serious changes in the consulate are in point of fact impending, or even taking place before we have had time to notice them.

Almost everyone who has even a slight acquaintance with the history of international relations is aware of the way in which the consular office has already lost much of its old standing through the abolition of privileges of extraterritoriality in modern states.² Originally, the consul was a judge in many cases between citizens of the state which he represented who were permanently, or even only temporarily, residing abroad. Today in all Western states he has come to exercise judicial powers only with respect to seamen on vessels flying the flag of his appointing state. The result has been a great diminution of his powers and prestige, a change so pronounced and of such long standing that few nowadays appreciate the great dignity and influence of the consular office in its earlier history.

¹ Potter, P. B., *International Organization* (rev. ed., 1925), Chap. V. Inasmuch as this paper is intended to be a study of a selected problem of international organization as it appears to the writer, references are made only to the writer's *Introduction to the Study of International Organization* for the setting of the problem, and to primary materials for the facts of the current situation.

² *Ibid.*, 69.

In our own day we are witnessing the extension of this development to the Oriental states where alone, in recent years, extraterritorial privileges and consular judicial functions have survived. The Western powers renounced their privileges of extraterritorial jurisdiction in Japan in 1899.³ Similar action has been taken by the powers in regard to Siam,⁴ and even Egypt and Morocco seem to enjoy a fair prospect in this direction.⁵ The action of Turkey in attempting in 1914 to abrogate by unilateral declaration the extraterritorial privileges enjoyed by Western powers in her territories was finally confirmed in the treaties signed at Lausanne in the summer of 1923.⁶ Agreements were adopted at the Washington Conference on Limitation of Armaments and Far Eastern Questions looking to the same result for China.⁷ When this process shall have proceeded to completion the consul will obviously have been reduced very definitely in power and importance as an international figure.

It is not, perhaps, so well realized that prior to the developments just described the consular office had already lost ground as a result of the establishment of permanent diplomatic representatives in the capitals of the various states of the world.⁸ The early consul was to a large extent not merely a judicial or administrative officer. He was also a diplomatic representative charged with the conduct of political relations between his home state and the state in which he was stationed. That these relations were not as manifold and comprehensive as they are today, and that the action of the consul in this connection was not as fully developed or elaborately standardized as is the action of

³ *British and Foreign State Papers*, Vol. LXXXVI, p. 39, for British treaty; *Treaties between the United States and other Parties*, Vol. I, p. 1028, for United States treaty.

⁴ Documents in *British and Foreign State Papers*, Vol. CII, p. 126, Vol. CVII, p. 750, and *American Journal of International Law*, Vol. XVI, Supp., p. 25. See also Treaty of Versailles, Art. 135, and Treaty of St. Germain, Art. 110.

⁵ Treaty of Versailles, Art. 142; Treaty of St. Germain, Art. 97; for Morocco, same, Arts. 147, 102, and for Egypt, British Proclamation of 28 February, 1922.

⁶ Treaty of Lausanne (Turkey and Allied Powers), Art. 28; Treaty between Turkey and United States, Art. 2.

⁷ Resolution No. 4.

⁸ Potter, *op. cit.*, pp. 69-70.

the diplomat of today, does not diminish the importance of the fact that such relations and negotiations as were carried on were entrusted to the consul. Nor does it diminish the importance of the fact that with the establishment of permanent diplomatic representatives this function was lost by the consul. The result was that the subsequent loss of judicial functions came as a second and cumulative impairment of the original consular rôle. By the middle of the eighteenth century the consul had thus been reduced to a position so unimportant that there was serious danger of the office disappearing entirely from the field of international organization and practice.

The consul was saved for modern international usage by the greater development of international trade which came about in the succeeding one hundred years.⁹ When the increasing foreign trade of the Western powers began to give them an interest in obtaining information concerning, and in possessing commercial representatives in, the territories of other powers, a new use was found for the consul. This development manifested itself particularly in the life of the great trading states, such as Great Britain, Holland, and later the United States. The Continental states generally allowed their consuls to remain on the plane of the somewhat reduced activity already described, and were slow to utilize their consuls for commercial work. But the British and American consuls were assigned such work in ever-increasing volume during the nineteenth century, until today consuls of European and other non-English countries have been allotted some functions in this direction also. The result has been to provide the consul with a body of work which amply supplements the activities remaining in his hands from other days.

While this development was taking place other changes also occurred which seriously affected the consul, some of which tended to strengthen, some to weaken, his position.

Thus, the use of the consul for commercial purposes threatened

⁹ See the excellent description of this process in C. L. Jones, *Consular Service of the United States*, 59, 102-107. Jones considers that the development of the commerce function increased the public character of the consul's position; but it is believed that reflection will show this to be a mistaken view.

at first to reduce him from his already lowered status to that of a mere unofficial trade agent. For a time, particularly when foreign commerce was as yet a purely private activity in which governments took but an indirect interest, British and American authorities were inclined to regard the consul as a merely private, or at best a merely semi-official, commercial representative.¹⁰ In this they were opposed to the view of the European governments, which had in the main retained the original conception of the legal status of the consul in spite of his somewhat diminished activities and powers.¹¹ Eventually, however, as a result of influences to be noted later, the Anglo-American view gave way, and today the consul emerges from this particular controversy with his official character vindicated. He is a commissioned officer of his government and not merely a commercial traveler, even though in the field of commerce he still serves private business more than any direct official interest of his government.

The use of consuls for commercial purposes also opened the door to the use as consuls of merchants already residing abroad, in place of persons sent out by the home government, and even to the use in this capacity of alien merchants resident and trading at their homes in foreign lands.¹² This was not entirely new, for in the earliest days of the consular office merchants residing abroad for private trading purposes, and even alien merchants in foreign lands, were appointed to the consular function by states desiring to avoid the necessity of sending out from home men to do such work, with all the expense and difficulty which such action would entail. But even in these earlier days such practices hampered the full development of the consular office, and when they were repeated in conjunction with the attitudes described in the preceding paragraph the effect tended to be serious. Happily for the consul as a figure in international life, the growing nationalism and the improved efficiency of national governments

¹⁰ *State v. de la Foret*, 1820, 2 Nott and McCord 217, and English cases there cited. In the course of its opinion in this case the court said of the consul: "He is no more than a commercial agent, attending to individual concerns."

¹¹ E.g., Clerq and de Vallat, *Guide Pratique des Consulats*, 1898, at § 3.

¹² Potter, Chap. VI, pp. 75-76.

in the later nineteenth century led these governments to condemn such practices and to attempt to nationalize their consular services and fill them with appointees trained and selected for the work and sent out as other national agents from the national capital.¹³ Again the consul was strengthened in his status as a public official.

On top of these developments have followed two others which seem also to fortify the position of the consul and place him today in a position of greater power and importance than ever before.

For one thing, international trade and shipping have increased in magnitude and importance to unheard-of proportions.¹⁴ The national governments are interesting themselves in the development of the foreign trade of their citizens as never before, while the value and the activity of that trade have increased beyond anything anticipated a century ago. The future promises to see no diminution of this process, but rather an intensified activity in this direction by private individuals and governments alike. The consul might, therefore, expect to rise to heights of power not previously equalled and to rival his colleague the diplomat, if not actually to surpass him, in importance and prestige.

At the same time, the number of persons belonging to his appointing state who are traveling or residing abroad is on the increase.¹⁵ These persons must look to the consul for protection, by virtue of the original function of the consul as judge and protector of his fellow citizens.¹⁶ The protection work of the consul is a reflection of his judicial work of earlier days. While that reflection is somewhat paler than the original, it has become more and more ubiquitous as the bulk of such work to be done has increased with increased foreign travel and foreign residence. When we take into account the way in which this work is organized in the consular districts into which each state subdivides

¹³ Aliens are now entirely barred from admission to the foreign service of the United States. Act of 24 May, 1924, Sec. 5.

¹⁴ See statistics in *World Almanac*, 1925, at 311, 718, and in *Whitaker's Almanac*, 1924, at 514.

¹⁵ *Ibid.*

¹⁶ For a statement of protection work of United States consuls, see *United States Consular Regulations*, 1924, Art. X.

every other state, and the manifold powers which the consul has delegated to him in this connection by his home government, we see the remarkable extent to which the states of the world, through the consul, govern their citizens even when they are traveling or residing abroad in other states, in spite of the abolition of extraterritoriality.

With this work on behalf of tourists and foreign residents is to be included (a) the work of the consul on behalf of seamen¹⁷ on ships flying the flag of his government and seamen claiming citizenship in his state, a still more direct survival of the original judicial powers of the consul, and (b) the various functions assigned to him in assisting in the enforcement of the customs, quarantine, immigration, and navigation laws of his government.¹⁸ It will thus be clearly seen that, in addition to his commercial importance, the consul is one of the most active and serviceable of public officials ever developed in the history of government.

The present appearance of the position of the consul is, however, deceptive. The very factors which have increased his importance are operating powerfully to produce results which may not stop at having developed the consular office to its present position. They may continue in operation to induce developments in which the consular office will be superseded, not because of its lack of utility, but because the scope and importance of the interests intrusted to its care demand more protection than even the consular office in its present extended form can give.

The increased importance of international trade is now a matter of concern not merely to the individual trading nations. It is a matter demanding attention on the part of all members of the community of nations; in other words, it is a thing of general international concern. It is therefore a subject very likely soon to be put forward for regulation by international action. In the past, international trade has not only been left mainly to private individuals; it has also been left to be conducted by these persons

¹⁷ Work on behalf of seamen: *Regulations*, Arts. XII-XVIII.

¹⁸ Work on administration of national legislation: Arts. XI, XX, XXII. From this point onward the "protection" work of the consul is intended to include the items mentioned in this paragraph.

more or less free from any international regulation. Suddenly there appear tendencies for increased governmental participation in that trade, and also for increased regulation of private international trade by national action and international agreement.¹⁹

That regulation might take the form of simple commercial treaties, left for enforcement to the nations signatory to these treaties and to their consular officials. This would not greatly change the present status of affairs, for consuls today have, as one of their chief duties, to watch over the application of commercial treaties between their home government and the local state. But if international regulation of world trade and the raw material of world trade, of the mineral and agricultural products and even the finished manufactures carried in world commerce, is to mean anything at all it will demand not mere bilateral treaties of the old type but general international conventions of quite a different character. It will also require the establishment of international commissions and bureaus for the application and enforcement of these conventions.

In other words, the very cause which has made the consul so important today, i. e., the increased magnitude and importance of international commerce, is likely to continue to operate until it calls forth a type of international organization and practice which will supersede the consul. In so far as oil or wheat or cotton or steel receive the sort of treatment provided in 1902 for sugar,²⁰ or more intensive regulation, the free trade in these commodities will be restricted and the familiar activity of the consul in promoting national trade in these commodities will be blasted.

There appears at this point one possibility which cannot be ignored in any consideration of the future of the consul. Just in proportion as international organizations are created for the regulation of international commerce, a need will be felt for field agents to administer such regulations as are adopted. And who but the consul could so well serve in this capacity? Thus the consul

¹⁹ See discussion in *First Assembly of the League of Nations, Plenary Sessions*, 9 Dec., 1920, of international control of raw materials; also W. S. Culbertson, *International Economic Policies*, Chap. I.

²⁰ Hertslet, *Commercial Treaties*, Vol. XXIII, p. 579.

might be drawn aside from national promotion work and drafted into international regulation work. From a national agent, the consul might become a unit in an international civil service under various international bureaus or the administrative or executive branch of the League of Nations. The need for—and the appearance of—an international civil service have already been pointed out. May not the consul be drawn aside into this field and thus saved instead of discarded, and not only saved but put to increased use as time goes on?

Such a development is not impossible, but it hardly seems feasible until certain other changes have come about. The consul today is too much of a national agent to make such a development easy, and in the years immediately to precede the taking over of international commerce for international regulation the competition among the nations will be keener and more vigorous than ever. The national consul, if left in commercial work at all, will be utilized by the national state for its own purposes to such an extent that if any international civil service is to be created it must be created from persons freer than he to give untainted allegiance to the international purposes and institutions they are to serve.

The most serious threat to the future of the consular office, however, comes from the national government itself. While it has raised the consul, for its own purposes, to a position of unprecedented power and importance, it has been reaching out in other directions also. New departments of commerce have been created in national governments, and these departments of commerce have begun to enter the field of international trade promotion to an extent dangerous to the position of the consul.²¹ Again the very importance of foreign trade has raised up another competing institution which threatens the consular office from another side. The threat from the growth of international administration is not so imminent and real, for the time, at least, as that from the side of the national commerce department, although it probably is destined to be more serious in the end.

²¹ See for the United States, *Foreign Service of the Department of Commerce*, issued by the Department.

As a matter of fact, the consul might very well be glad to seize the opportunity to escape from the burden of commerce promotion work. As far as concerns the carrying on of investigations and the compilation of statistics, making reports and answering inquiries concerning trade opportunities, the consul has two legitimate grievances. Such activity takes much time and energy and detracts from his ability to perform his proper protection work on behalf of fellow citizens and his work in behalf of the police legislation of his government (immigration, quarantine, and so on), not to mention his duties in connection with shipping and seamen. Moreover, he cannot hope to compete, in sending in commerce reports, with the field agents of the commerce department—commercial attachés or other investigators—who are trained especially for the making of economic investigations, who are often professional statisticians, and who have no protection work or administrative work to prevent them from giving all of their time to these investigations. Finally, the consul who is true to the traditions of the office and who has any true realization of the practical exigencies of the situation in which he is placed must resent being taken from the dignified and important judicial and administrative work of his office to be made into something of a commercial drummer for a soda-water manufacturing concern back home. He knows, moreover, that in connection with competitive commodities—and the self-selling non-competitive commodities are not the ones which call for "promotion"—it is in just this field of action, by just this sort of promotion work, that the consul is most certain to antagonize local business men and the national and local governmental officials with whom he must deal and to whom he must look for the effective accomplishment of his protective activities on behalf of fellow-citizens. All this is intensified when, as is almost inevitable, the commerce department takes all the credit for the resultant expansion of the national foreign trade, and the administrative superiors of the consul are ready to take him to task for both the deficiencies in quantity and quality in his commerce reports and any neglect of protection work as well.

It cannot be said that the consul is either protesting, along the lines just indicated, or demanding relief. He is too good a public servant to rebel. He seems to enjoy hard work. He enjoys the sense of importance which accompanies each added piece of work. He is jealous of the commerce department and wants to show how well he can do his commerce work, and does not want to yield to that department any of his present functions. It ought to be recognized, however, that the consul is undertaking an impossible task. The mass of his protection and administrative work is increasing rapidly. The demand for increased commerce promotion is becoming more vigorous. The two functions are incompatible in their nature and in the amount of time and energy which they demand. And if the foreign affairs department, interested in the protection work, does not—as there seem to be few indications that it will—of its own accord turn over the foreign commerce work to the commerce department, the latter, when it has finally put itself in a position to do the commerce work now performed at so much expense of time and labor by the consul, will almost certainly demand that it be allowed to take over that work or will go ahead with such work and leave the commerce work of the consuls to come to an end of itself.

Now it so happens that just as these developments are taking place on one side of the consular office another development is taking place on another side, destined to reinforce the effect of the former and constitute the decisive factor in the situation. There has appeared in several countries an inclination to consolidate the diplomatic and consular services into one foreign service. Action looking to this result has been taken in Belgium, Denmark, France, Great Britain, Germany, Italy, Norway, Sweden, and the United States, if not elsewhere.²² The effect of this action on the status of the consular office, and both the actual and alleged reasons for the action, with what they have of light to throw on the question which we are discussing, are worthy of consideration.

The principal reason for the amalgamation of the consular with the diplomatic service seems to be the clumsiness, from an ad-

²² *American Consular Service Bulletin*, Vol. III, No. 3, p. 2, and Vol. VI, p. 242.

ministrative point of view, of maintaining two services in the field at the same time. It is also felt that interchanges of personnel between the services may be beneficial to the services. Finally, it is felt that, international economic relations being as important as they are coming to be, the diplomatic service needs strengthening on this side. The last reason reenforces what has been said on this score above, but it does not take account of the activities of the commerce department in this field, nor of the fact that the action of the diplomatic representative in this connection must be that of negotiating treaties, and similar tasks, rather than that of trade promotion or statistical investigation in the manner and on the scale now attempted by the consul. At the same time, the plan of interchanging personnel and getting rid of two distinct services implies in a startling manner the possibility of disregarding the peculiar position now occupied by the consul.

For in any such amalgamation the consul is bound to be subordinated to the diplomat. The latter represents all the interests of the home state, its foreign policy as a whole. He is therefore, in the very nature of the case, placed in a position of superiority with reference to the consul. His superior authority has found expression in the past in many rules regulating their relations and giving him some supervisory power over the consul.²³ The primary result of the amalgamation of the two services, therefore, is bound to be to destroy the somewhat independent position hitherto occupied by the consul and to bring him into even closer subordination to the diplomat. He could never occupy a rank above the diplomat; if an attempt were made to abolish the different designations "consul" and "diplomatic representative," that which would be adopted for the single new representative would certainly be something very near to the latter, in view of the absolute, rather than relative, indispensability of the diplomatic representative. Hence the only hope for the consul lay in maintaining his independent position. Now that this bids fair to be lost, the consul can expect but one result, namely,

²³ *Regulations*, Art. VII.

to become eventually the provincial agent of the ambassador or minister in the capital.

Weight is lent to this conclusion by a review of what was noted concerning the current developments in the commercial and protection work of the consul. If, as was suggested, the commerce work of the consul should be transferred to the department of commerce, and if, as is the actual case, the protection and administrative work of the consul continues to increase, the incorporation of the consul in the diplomatic service—so to speak, for of course this would mean the abolition of the consular office in name at least—would be all the more appropriate. With all protection work—that portion which is now performed by the consul and that portion which is performed by the diplomat—concentrated in one service, and that the service most closely in touch with the central government, the protection work would gain greatly in efficiency and influence. With all commercial work—that portion now in the hands of the consul and that in the hands of the commerce department—concentrated in one quarter, the commercial work would gain in effectiveness by being placed in the hands of those best equipped to do it and those having no other duties to perform, while those agents engaged in protection work would be relieved of the embarrassment sometimes felt in their present ambiguous rôle. Needless to say, the persons performing commercial services, like those performing services in the foreign field for any department of the national government, should and would be under the general supervision of the diplomatic service.

One further result might be expected as far as the consular office is concerned, and the desirability or appropriateness of that result does not detract from the probability of the developments above outlined. That is a standardization of the position, and particularly the powers and immunities, of the consul at international law. Today consuls are exchanged between the members of each pair of states almost entirely as a result of a particular consular convention. We find no counterpart of this convention in the diplomatic field except an informal agreement to exchange diplomatic representatives of standard ranks, which is quite

different from the consular convention.²⁴ The consular convention regulates in detail the rank and powers of the consular officers to be appointed under it. The rank and powers of diplomatic officials are standardized by general international law. Finally, the privileges and immunities of consuls are merely stated to be those which are necessary for the performance of their work, which leaves matters in a vague and unsatisfactory position.²⁵ The privileges and immunities of diplomats have been worked out in general international law to a reasonable degree of precision and completeness. If the consul becomes part of the diplomatic service we may count on either a thorough overhauling of this whole branch of the law, and its revision and codification by international agreement, or the extension of the rules of law relating to diplomats to the newly acquired provincial agents of that service.

It may well be felt that what is here suggested is an extreme view not warranted by the facts. For it means the disappearance of the consul as we know him. Moreover, one very familiar with this whole subject and entitled to be heard in any discussion of the consular office has recently declared that the consular office is a natural human function, inescapable in its essentials as are discussion, legislation, adjudication, and the other essential activities or phases of government among men.²⁶ Finally, can it be true that we are faced by circumstances so radically different from those which have gone before that we are likely to see the disappearance of an office which has existed for some eight hundred years, and which, moreover, seems to be in a position of greater power and importance today than at any time during those eight centuries of laborious and honorable service?

The reply seems to be that there is less divergence between the views set forth above and the challenges contained in the last

²⁴ Compare consular convention in *United States Statutes at Large*, Vol. XXXVII, p. 1479, with news item in *New York Times*, 1 January, 1922, p. 14, where the connection between recognition of new governments and reception of diplomatic representatives is also brought out, still further confirming what is said in the text.

²⁵ See discussion in *In re Baiz*, 1890, 135 U. S. 403.

²⁶ United States Consul-General Wesley Frost, quoted in *American Consular Bulletin*, Vol. III, No. 4, 5.

paragraph than would appear at first sight. We can, and must, agree at once that the consular *function* is an indispensable function in human society. Indeed, we may insist that that function is more needed today than ever before in human history. We should, however, insist also that that function is essentially the protective and administrative function. For what is the consul as we know him? An ambiguous person who is part public official and part private merchant, in spirit if not in law—a person or official whose extraordinary volume of duties indicates that some abnormal processes have been at work in the development of his present position. That that position is higher today than ever before since the appearance of consuls in the beginning of the twelfth century is true, though this fact by itself may indicate either sound growth or unsound inflation. Finally, the revolutionary changes in international trade and travel during the past two generations are surely sufficient to account for both that abnormal inflation and the desirability of rearrangements which will restore the consul to a normal position.

In conclusion, what is here suggested? Mainly that the consular office be purged of its nineteenth-century excrescence and restored to its original estate. The name may disappear, but after amalgamation with the diplomatic service it would be perfectly clear that the bulk of the foreign service would be composed of officers performing functions essentially consular in form. The adjustment of the consular functions within the diplomatic service would be simple because there is no such antagonism between them and the essential work of the diplomat—observation, representation, negotiation—as between them and commerce promotion work, and because the diplomat already performs, albeit grudgingly, some protection work himself. If the diplomat appeared, in name at least, to sit on the top of the pyramid and lord it over the corps of workers beneath him, no one would be deceived. That comparatively recent and comparatively unserviceable officer might well be overtaken by a fate similar to that which is here pictured as overtaking the consul, as a result of the de-

²⁷ See remarks by Professor De Visscher quoted in *New York Times*, 17 August, 1924, p. 5.

FAMILY VOTING IN FRANCE

ROBERT K. GOOCH

University of Virginia

One of the results of the federal form of government of the United States, under which suffrage and elections are made primarily the concern of the several states, has been the comparatively small part played in practical national politics by controversies relating to voters and voting. The great reform bills and representation of the people acts in England, as well as the conditions in that country under which the acts were adopted, have no close parallels in American political history. Still less closely does the history of this country in these matters resemble that of France. The experience of the Third Republic has been filled with controversy concerning the organization of the electoral power. The limits to this organization are indeed set by the stipulation of the constitution that "the Chamber of Deputies shall be elected by universal suffrage";¹ but within these limits considerable latitude for change is assured by the qualifying phrase, "in the conditions determined by electoral law." Change has been frequent, and change has been attended by the controversy mentioned. Thus, there have been since 1875 no fewer than five alternate adoptions of *scrutin uninominal* and *scrutin de liste*;² and since the separation of church and state was consummated in the beginning of the present century, the question of electoral reform has probably been the chief single issue of internal French politics.³

¹ *Loi relative à l'organisation des pouvoirs publics* (25-28 février 1875), art 1^{er}, §2: La Chambre des députés est nommée par le suffrage universel dans les conditions déterminées par la loi électorale.

² Esmein, *Éléments de droit constitutionnel* (7^e éd., Paris, 1921), T. II, pp. 298-299; Duguit, *Traité de droit constitutionnel* (2^e éd., Paris, 1921-1924), T. II, pp. 564 ff.; Hauriou, *Précis de droit constitutionnel* (Paris, 1923), p. 535 n.

³ Carrère et Bourgin, *Manuel des partis politiques en France* (Paris, 1924), p. 14. Cf. also Lavisson, *Histoire de France contemporaine*, T. 8^e, *L'évolution de la 3^e République*, par Ch. Seignobcs (Paris, 1921), pp. 269 ff.

There is one suggestion for electoral reform in France which has recently been demanding and receiving increasing attention, and its adoption in a reasonably near future is by no means unlikely. The proposed reform is what is known as "family voting."⁴ In the form in which it is usually advocated, its adoption would give to France an absolutely unique electoral system,⁵ and yet advocates of the system are found amongst all French political parties, radical and conservative alike. Some of the details of proposed schemes for family voting will presently be set out; but in general the system, as its name implies, posits the family rather than the individual as the basis of suffrage. It assumes the monogamous family as the proper basis of society,⁶ and it advocates the desirability, and even necessity, in view of the alarming situation concerning depopulation in France,⁷ of incorporating this assumption into the governmental system by means of electoral reform. The argument in its simplest form is

⁴ The bibliography for the subject is not extensive. Perhaps the most satisfactory single work is André Enfière, *Le vote familial* (Paris, 1923). The two principal university theses are Landrieu, *Le vote familial* (Lille, 1923), and Fosse, *Le vote familial* (Montpellier, 1924). Two earlier theses are Carpentier, *L'organisation de la famille et le vote familial* (Paris, 1913), and Boucairan, *La famille nombreuse dans l'histoire et de nos jours* (Montpellier, 1920). For documents and works other than those cited in the notes of this article, reference may be made to the bibliography contained in M. Landrieu's thesis, pp. 99-100.

⁵ Enfière, *op. cit.*, p. 42, and preface by J.—L. Breton, p. 5. Certain pre-war statistics are of interest. In 1914 there were 11,185,078 voters, of whom 8,586,355 voted. The proposed system would in 1914 have given about 38,000,000 voters. The population of France in 1911 was 39,602,200 or, with foreigners subtracted, 38,032,296. In addition to the 11,000,000 voters, the remainder of those who would have been affected by family voting was thus distributed: married women, 8,140,000; widows, 2,385,000; divorcees, 85,000; daughters over twenty-one, 2,000,000; boys, 7,400,000; and girls, 6,780,000. These figures are taken from J. O., 1920, Docs. Ch., no. 252, pp. 288 ff.

⁶ Landrieu, *op. cit.*, pp. 7-12, p. 30. The influence is largely that of Le Play, Victor Hugo, Auguste Comte, and others of this school.

⁷ This situation is sketched in many places, e.g. Landrieu, *op. cit.*, pp. 43 ff; Fosse, *op. cit.*, pp. 159 ff.; Enfière, *op. cit.*, pp. 13 ff. It is the illustrious French economist, Charles Gide, who is responsible for the famous expression: "La France est un îlot de sucre qui fond." M. Fosse concludes his thesis with these words: "Il s'agit donc, pour notre pays, d'une question de vie ou de mort. Si pour vivre, il faut bouleverser nos institutions présentes et opérer d'audacieuses réformes faisons-le sans hésiter, tant pis pour les principes."

this: a parliament elected by the system of family voting will represent the nation in terms of its true unit, the family; the laws made will have due regard for the family as the basis of society; and in the result France will be saved from its threatened destruction.

An electoral system for which so much is claimed cannot fail to be of interest to the student of political science. It seems well to trace the history of the advocacy in France of the adoption of family voting, to set out some of the details of the various plans proposed, and to examine the arguments which are to be marshalled both for and against the suggested reform.

Although family voting in the forms advocated in France has never, as was said above, been adopted in any country, and although serious advocacy of the system belongs to very modern times even in France, the researches of students in this special subject have revealed historical supports for the cause; and any student may trace the brief history of various proposals for the adoption of the reform in France. Thus, it is pointed out that there existed at Athens and at Rome electoral organizations based on the family.⁸ When these were replaced by organizations essentially territorial, the political influence of the family ceased to be felt until the feudal period.⁹ Its former importance was revived at this time; but, already lessened at the end of the Old Régime, it was destroyed by the Revolution.¹⁰ Reaction from the Revolutionary attitude belongs to the recent history of France.¹¹

⁸ These were the organizations replaced respectively by the reforms of Cleisthenes and of Servius Tullius. Cf. Hauriou, *op. cit.*, p. 614, and Fosse, *op. cit.*, pp. 63 ff.

⁹ M. Fosse (*op. cit.*, pp. 78 ff.) has unearthed many instances in which the political rôle of the family has in mediæval and [modern times been recognized in foreign legislation. The most striking mediæval examples are Andorra and San Marino. The reform bill of 1832 in England mentions the head of the family; and in some way recognition is made of heads of families in Mexico, Chili, Ecuador, Peru, Salvador, Hungary, Spain, Portugal, Sweden, Brazil, and Belgium. The last-mentioned country naturally receives especial attention in France. Reference may be made to Barthélémy, *L'organisation du suffrage et l'expérience belge* (Paris, 1912), and Dupriez, *L'organisation du suffrage universel en Belgique* (Bruxelles, 1901). Cf. also J. O., 1911, Docs. Ch., p. 2200, p. 2201; Landrieu, *op. cit.*, p. 17.

¹⁰ Cf. Hauriou, *op. cit.*, pp. 614–15; Fosse, *op. cit.*, p. 77.

¹¹ The reaction is attributed to Le Play and his school. See Fosse, *loc cit.*, and cf. Landrieu, *op. cit.*, pp. 30–36.

Lamartine is claimed as the first supporter of family voting in France,¹² but all others who have proposed the adoption of the system belong to the period following the fall of the Second Empire. The first name demanding attention in that of M. le baron de Jouvenel. On July 31, 1871, he introduced¹³ into the National Assembly a proposal¹⁴ for organizing the suffrage with the family as a basis. "It ought," he declared, "to be proclaimed aloud that everyone has the right to be represented in the political arena. The only thing is that this right may be either directly or indirectly exercised, depending on personal capability or on permanent or temporary incapacity." As so often happens, the principle proposed by M. de Jouvenel was to some extent obscured by the efforts of two other gentlemen¹⁵ to amend the proposal in certain details; but only a few members of the Assembly were sympathetic with any of the suggestions.

No further attention seems to have been given in Parliament to the proposed reform during the remainder of the nineteenth century. In the last years of the century, however, the question received some notice outside Parliament. In 1896, the demographic situation became responsible for the founding of the *Alliance nationale pour l'accroissement de la population française*,¹⁶ and two years later notice was taken of the question in the *Académie des sciences morales et politiques*.¹⁷ In the latter body, M. Picot protested against giving to bachelors and to fathers of families equal power in voting, declaring that it is "an effort

¹² Cf. Landrieu, *op. cit.*, p. 13. On the marble façade of the Hôtel du Cheval Blanc at Bergues are these words of the poet: "Un jour viendra, je n'en doute pas, où le père de famille aura autant de voix qu'il y a de vieillards, de femmes et d'enfants à son foyer, car dans une société mieux faite, ce n'est pas l'individu, c'est la famille qui est l'unité permanente. L'individu passe, la famille reste; le principe de la conservation sociale est là; on le développera pour donner à la démocratie autant de stabilité qu'à la monarchie."

¹³ J. O., 1^{er} août 1871, p. 2350.

¹⁴ J. O., 22 août 1871, p. 2871, annexe no. 435. Cf. J. O., 1920, Docs. Ch., no. 252, p. 290. See also Landrieu, *op. cit.*, p. 13-14; Fosse, *op. cit.*, pp. 94 ff.

¹⁵ M. de Douhet and M. de Gueydon. J. O., 2 août 1871, p. 2373.

¹⁶ Landrieu, *op. cit.*, p. 14. This organization publishes a *Bulletin* at 10 rue Vivienne in Paris.

¹⁷ *Séances et travaux de l'Académie des sciences morales et politiques*, T. 49 (1898), p. 138. Cf. Landrieu, *loc. cit.*

against nature." In the present century, extra-parliamentary interest, it may be well to note before returning to the parliamentary history of family voting, has increased.¹⁸ Various leagues of fathers of families¹⁹ have been formed, and a federation of these leagues held a meeting in Bordeaux in 1920. More official bodies have not neglected the matter. Many of the *conseils généraux* of the departments have demanded the adoption of family voting, and similar support has been given by a number of commissions instituted in the departments by the ministry of hygiene.

The first occasion during the twentieth century on which attention was directed to the reform in Parliament was a step taken in the Senate in 1901. In November of that year, that body decided to set up an extra-parliamentary committee to examine the question.²⁰ There were, however, no results of this move. In the Chamber of Deputies, a serious proposal for the adoption of family voting was made by M. Lemire in 1911.²¹ This measure of the veteran abbé-deputy was not discussed at the time in the Chamber, but in slightly modified form it was reintroduced in 1914 and, as will appear, again in 1920. Once more in 1914,²² the adoption of family voting was advocated in the Senate. Nothing came of this effort, and the same is true of two proposed measures introduced into the lower chamber during the World War. One of these was sponsored by M. Peyroux in 1917,²³ but more important was the proposal of M. Henry Roulleaux-Dugage submitted in 1916.²⁴ M. Roulleaux-Dugage is now,

¹⁸ Cf. Landrieu, *op. cit.*, pp. 18-23.

¹⁹ *Ibid.*, pp. 99-100. M. Landrieu gives references to the minutes of various meetings of such leagues as well as to those of the *conseils* and commissions mentioned.

²⁰ Landrieu, *op. cit.*, p. 15. Cf. *Revue hebdomadaire*, 1^{er} mai 1909.

²¹ J. O., 8 juillet 1911, Débs. Ch., p. 2664; J. O., 1911, Docs. Ch., no. 1135, p. 2200. Cf. Landrieu, *op. cit.*, p. 25; Fosse, p. 105.

²² J. O., 1914, Docs. Sén., no. 325, p. 635. Cf. Duguit, *op. cit.*, T. II, p. 451; Landrieu, *op. cit.*, p. 15-16.

²³ J. O., 1917, Docs. Ch., no. 3910. Cf. Landrieu, *op. cit.*, p. 18.

²⁴ J. O., 1916, Docs. Ch., no. 2618, p. 1593; and cf. J. O., 21 octobre 1916, Débs. Ch., p. 310; J. O., 1920, Docs. Ch., no. 252, p. 288; Landrieu, *op. cit.*, p. 18; Fosse, *op. cit.*, p. 115.

indeed, the principal parliamentary champion of family voting. He abandoned his measure in 1916 in order to make way for the serious questions raised by the war,²⁵ but it will be seen presently that he has returned to the attack since the armistice, and it is unlikely that he will rest during his life-time unless the reform which he considers so important becomes part of the law of the land.²⁶

In recent years, family voting has reached the point of being discussed in plenary session of both the Senate and the Chamber of Deputies. In the upper house, M. de Las-Cases introduced on July 11, 1919, a proposal²⁷ similar to the measure formulated in the Chamber of Deputies by M. Rouleaux-Dugage. The Senate referred the measure to its committee on woman suffrage, and in October a report unfavorable to the principle of family voting was made for the committee by M. Alexandre Bérard. This was not the end of the matter in the Senate, however; for the question was again raised in November, 1922, in the course of a debate on woman suffrage. The reporter of the committee stated on this occasion that the defeat of woman suffrage did not touch family voting, and that the latter could be discussed on a later occasion whenever the Senate should see fit.²⁸

In the Chamber of Deputies, progress was still greater. M. Lemire reintroduced his measure of 1911 into the Chamber in June, 1920,²⁹ though it made no advance beyond reference to the committee on universal suffrage. Meantime, M. Rouleaux-Dugage had continued his efforts, and had become chief supporter of the cause. Twice in 1919 he was able to get before the Chamber the proposal which he had abandoned in 1916. In April he offered his measure as an amendment during the de-

²⁵ J. O., 1920, Docs. Ch., no. 252, p. 289. Cf. also Fosse, *op. cit.*, p. 113. Landrieu (*op. cit.*, p. 28) appears to make a small mistake in this matter.

²⁶ In addition to his efforts in Parliament, M. Rouleaux-Dugage has written important magazine and newspaper articles in favor of family voting. These latter are to be found in the *Révue politique et parlementaire* (mars 1918) and in *Le Matin* (lundi, 5 mars 1923).

²⁷ J. O., 1919, Docs. Sén., no. 337, p. 504.

²⁸ Cf. Landrieu, *op. cit.*, pp. 28-29.

²⁹ J. O., 31 juillet 1920, Débs. Ch., p. 3319. Cf. also J. O., 1920, Docs. Ch., no. 1482; Landrieu, *op. cit.*, p. 25; Fosse, *op. cit.*, p. 105.

bate on proportional representation; and he had the satisfaction of receiving considerable support, as is evidenced by the fact that the amendment was disjoined by a vote of 302 to 187.³⁰ Again, in the following month, when the Chamber was debating the extension of the franchise to women, M. Roulleaux-Dugage offered his proposal as an amendment. On this occasion the amendment was disjoined only by the close vote of 219 to 200.³¹ The two hundred deputies who opposed disjunction were of all varieties of political opinion,³² and the list includes M. Landry and the veteran Socialist deputy, M. Jules-Louis Breton.³³

Finally, M. Roulleaux-Dugage introduced his measure into the Chamber in January, 1920.³⁴ On this occasion he had the signed support of about 175 deputies from all parties but the Socialists.³⁵ The proposal was referred to the committee on universal suffrage, which chose M. Roulleaux-Dugage as reporter of his own measure. His report was adopted unanimously by the committee in December, 1921.³⁶ It was two years before the report was discussed in the Chamber; but at last on December 7, 1923, the measure reported by M. Roulleaux-Dugage was offered as a counter-proposal to the proposition of law of M. Godart on woman suffrage.³⁷ On December 11, the Chamber by a vote of 404 to 144 rejected disjunction of family voting from the proposal of M. Godart, and voted by 419 to 75 to pass to a discussion of M. Roulleaux-Dugage's reported measure. The discussion took place on December 12 and 14, but the debating of

³⁰ J. O., 4 avril 1919, Débs. Ch., p. 1704. Cf. Landrieu, *op. cit.*, p. 26.

³¹ J. O., 16 mai 1919, Débs. Ch., pp. 2306 ff. Cf. Landrieu, *op. cit.*, p. 26; Fosse, *op. cit.*, p. 115.

³² For lists v. J. O., *loc. cit.*, and p. 2328.

³³ M. Breton has since been elected to the Senate. He is a former minister and is author of a preface to the monograph on family voting by M. Enfrière already mentioned.

³⁴ J. O., 31 janvier 1920, Débs. Ch., p. 92; J. O., 1920, Docs. Ch., no. 252, p. 288. Cf. Landrieu, *op. cit.*, p. 27; Fosse, *op. cit.*, p. 116.

³⁵ For lists see J. O., *loc. cit.*

³⁶ Cf. Landrieu, p. 27. M. Roulleaux-Dugage added in considerable degree to his supporters by abandoning a dogmatic assertion of the principle that voting is the personal right of every citizen.

³⁷ J. O., 8 décembre 1923, Débs. Ch., p. 395.

more urgent matters has so far prevented its conclusion. Further debate on family voting remains on the order of the day.³⁸

The recent history of the agitation for family voting in France may be concluded by reference to an instance of success. On July 13, 1922, a decree of the resident-general of France in Tunis (M. Soint) stipulated³⁹ the method of selecting the French section of the "Grand Conseil de Tunisie"; and into this method is incorporated the principle of family voting.⁴⁰

It will appear from what has been said that there have been in reality three separate measures in France advocating family voting. These are the proposals of M. de Jouvenel, M. Lemire, and M. Rouleaux-Dugage. These measures are sufficiently independent one of the other to admit of separate treatment; all others are frankly merely modifications of them. Differences in detail may be briefly set out.

One of the principal problems of the advocate of family voting has been to determine what should be his attitude toward woman suffrage. It has already been intimated that between family voting and woman suffrage there is no necessary connection. The family may be accepted as the basis of suffrage organization by giving to the father all supplementary votes allotted to wife and children, and the earlier proposals definitely rejected woman suffrage. At the present time, however, it is for the most part agreed that the cause of votes for women and of family voting must proceed *pari passu*.⁴¹ This involves the status of wives, widows, and daughters who are of age; and the three proposals under consideration present in this respect their first differences of detail. M. de Jouvenel and M. Lemire repudiate woman

³⁸ Fosse, *op. cit.*, p. 116, p. 152 n. The whole situation with respect to the electoral system appears for the present indefinite. The accession of the Radicals meant the doom of proportional representation; and a return to the principle of *scrutin uninominal* is probably assured. However, application of this principle is difficult. In July, 1925, the committee on universal suffrage in the Chamber was unable to agree on any one of several measures proposed, and the matter was postponed to the session which is under way at present. Cf. *Le Temps*, 10 juillet 1925, p. 2.

³⁹ Art. 32 bis.

⁴⁰ *Revue de l'Alliance nationale*, no. 123, octobre 1922, p. 309. Cf. Enfière, *op. cit.*, p. 42 n; Landrieu, *op. cit.*, pp. 28-29; Fosse, *op. cit.*, pp. 135-136.

⁴¹ Cf. Enfière, *op. cit.*, p. 65; Landrieu, *op. cit.*, p. 37; Fosse, *op. cit.*, pp. 139 ff.

suffrage, whereas M. Roulleaux-Dugage gives it his full acceptance. In the result, M. de Jouvenel proposes⁴² that the father of a family shall be possessed of an extra vote for his wife and for each daughter of age; but a widow with or without children would remain without any vote.⁴³ M. Lemire suggests⁴⁴ only one difference of detail in this respect. Since in general he proposes for the father only one extra vote for three or more living children, daughters of age who are unmarried are reckoned together with daughters and sons who are not of age. As in the measure of M. de Jouvenel, the father is allotted an extra vote for his wife, and widows remain without the vote. On the other hand, M. Roulleaux-Dugage incorporates into his proposal⁴⁵ all the con-

⁴² J. O., 1^{er} août 1871, p. 2350; and cf. J. O., 1920, Docs. Ch., no. 252, p. 290.

⁴³ According to the amendment proposed by M. de Douhet to the measure of M. de Jouvenel, a widow would have been possessed of a vote which she could not, however, employ for herself. Her right was to be exercised by a son, if of age. If she were without children, the vote could not be used; and if a son were a minor, the vote was to remain unused until such son became of age. Of course, if she should remarry, the husband would use the vote. J. O., août 1871, p. 2373; and cf. J. O., 1920, Docs. Ch., *loc. cit.*

⁴⁴ J. O., 8 juillet 1911, Débs. Ch., p. 2864; and J. O., 1911, Docs. Ch., no. 1135, p. 2200. Cf. also J. O., 1920, Docs. Ch., *loc. cit.*

⁴⁵ J. O., 1920, Docs. Ch., p. 92; no. 252, p. 288 ff.; no. 1482, p. 3319. The text of the proposal is of interest:

Art. 1^{er}—Sont électeurs tous les Français, sans distinction de sexe ni d'âge, à l'exception de ceux qui se trouvent dans l'un des cas d'incapacité prévus par la loi.

Art. 2—Le père de famille exerce le droit de suffrage pour lui-même et pour ses enfants mineurs des deux sexes, légitimes ou naturels reconnus.

Art. 3—En cas de décès, d'incapacité légale ou d'absence judiciairement présumée ou déclarée du père de famille, le droit de suffrage est exercé par la mère en personne pour elle-même et pour ses enfants mineurs.

Art. 4.—En cas etc. du père et de la mère, l'enfant mineur est représenté au scrutin par son tuteur ou curateur. En cas d'adoption, le mineur adopté est représenté par l'adoptant.

Art. 5.—Le nombre des suffrages appartenant à chaque électeur en vertu des dispositions qui précèdent est fixé chaque année au moment de la révision des listes électorales.

Tous les électeurs figurent sur les listes, mais avec mention de représentant légal pour ceux qui ne doivent pas voter personnellement.

Art. 6.—Chaque citoyen ayant l'exercice personnel de son droit de voter reçoit, en temps utile, une carte électorale qui porte, s'il y a lieu, outre son propre nom, l'indication nominative des personnes qu'il doit représenter au scrutin.

L'électeur dépose dans l'urne autant de bulletins séparés que sa carte lui donne de suffrages à exprimer et l'émargement de toutes les personnes ainsi représentées se fait alors sur la liste générale des inscrits.

sequences of accepting woman suffrage: the wife votes for herself; the daughter who is of age votes for herself; the widow without children votes for herself; and the widow with children not only votes for herself but is allotted a supplementary vote for each minor child.

The foregoing exposition of the proposed details with respect to the feminine part of the family has in a measure anticipated the position of the father. M. de Jouvenel gives to the head of the family an extra vote for each boy and girl⁴⁶ of which he is the father, and, as already pointed out, for his wife and for each daughter of age. M. Lemire proposes for the father a maximum of three votes.⁴⁷ one of these is for himself; one is for his wife; and one is for three or more living children, the latter category including sons under age and all unmarried daughters. M. Roulleaux-Dugage proposes that the father vote once for himself and once for each minor child; but in case of the incapacity of the father, the votes for the children are to be cast by the mother. Finally, M. de Jouvenel and M. Roulleaux-Dugage add a detail absent from the proposal of M. Lemire: for each ward one vote is allotted to the guardian or trustee.

The first obstacle with which the advocate of family voting is confronted is the inertia resulting from distrust of what is new.⁴⁸ That family voting is untried cannot be denied; so that

⁴⁶ In the amendment of M. de Douhet, it was stipulated that the child should be five years of age in order to bring an extra vote to the father. An amendment of M. de Gueydon would have fixed six as a maximum number of votes for the father of a family. The proposal of 1914 in the Senate (*v. supra*) would have given votes only for male children.

⁴⁷ M. Lemire in a letter to M. Fosse (*op. cit.*, p. 113 n) explains the principles underlying his proposal. He concludes his letter thus: "En résumé nous nous en tenons aux trois types d'électorate suivants, faciles à déterminer, parcequ'ils correspondent à des situations sociales distinctes: 1^o l'électorat à tout citoyen majeur, c'est le droit de l'individu; 2^o l'électorat à tout homme marié ou veuf avec enfant, c'est le droit de la famille; 3^o l'électorat à tout père d'au moins quatre enfants vivants non électeurs, c'est le droit de la race." It may be noted that in this letter M. Lemire has changed the number of children necessary for the extra vote from three to four. A slight variation in the proposal of M. Peyroux (*supra*) consisted in suggesting one vote for the father of a child and two votes for the father of five or more.

⁴⁸ Enfière, *op. cit.*, p. 19.

this is not an argument to be refuted but a situation which can be gradually improved only by education through propaganda. Aside from this general opposition, which is for the most part unreasoning, there are many specific objections to the proposed scheme, which the advocates of family voting endeavor carefully and patiently to meet and to refute.⁴⁹ All these are treated as sincere. Some are sincere but apparently unsound. Some are sincere and seem to be well founded. Others involve the not unfamiliar form of dialectic which consists in setting up, in order to demolish by knocking over, claims which the advocates of a cause have never made and which they would be among the first to repudiate. Otherwise classified, some of these objections are seen to be of a social character, while others are based on political theory. Again, some urge the inefficacy of the proposed reform, arguing that even if its aim be good, it would not accomplish what it claims; and still others contend that the difficulties of practical application are so great as to render all proposals unworkable. It is impossible here to set out in detail all these specific objections and the answers to them; all that can be attempted is a brief summary of a few typical examples.

The most usual objection to family voting is the argument that the ballot will not cause the birth of children.⁵⁰ This contention, based on the inefficacy of the proposed reform, is an excellent example of the practice mentioned, in which the opponents of a proposal attack a claim which is not made. In this specific case, the trouble arises from confusing a direct result with what is claimed only as an indirect result. Those who argue the case for family voting recognize the absurdity of hoping that births will increase merely because more votes will result from such births. Their final, not their immediate, aim is the repopulation of France. They contend only that a parliament or a government which failed to follow a general policy looking to an increase of the birthrate and to the welfare of the family would in the result,

⁴⁹ M. Enfière's work cited is almost entirely a careful examination of the various objections to family voting with an attempted refutation of each. Arguments against the scheme are also answered in the theses of M. Landrieu and M. Fosse.

⁵⁰ Cf. Enfière, *op. cit.*, pp. 22 ff.

if family voting were the prevailing organization of the suffrage, commit political suicide.

The objection that control of child-birth is a moral question, which as such escapes the action of the legislator,⁵¹ together with all objections based on abstract political theory,⁵² would seem to exemplify contentions based on sincere but unsound arguments. Thus, the ineffectiveness of legislation in moral matters is a familiar extreme view which loses sight of the true relationship between legislation and morality, a relationship in reality reciprocal in character. Similarly, confusion is contained in many of the political arguments. There is no need to argue that plural voting is undemocratic; that family voting violates the principle of universal suffrage, of the political equality of citizens, and the principle of public law which excludes representation in elections; or that minors have no civil rights and must therefore not have the vote. Plural voting, as it has been and is practiced, may well be aristocratic in character on account of the privilege accorded to property and capacity; but family voting does not necessarily lead to voting based on property or capacity merely because it is plural voting.⁵³ All the other arguments mentioned hopelessly confuse the legal and extra-legal aspects of authority in the state; for no effort is made to distinguish between what the state can do, what it does do, and what it ought to do.

It is only natural that the soundest objections to family voting are social in character. That such objections are not conclusive is altogether possible; but they deserve most attention, since considerations of this order ought to determine the final solution of

⁵¹ Cf. *ibid.*, pp. 24-29.

⁵² Cf. *ibid.*, pp. 40 ff.; Landrieu, *op. cit.*, p. 40, pp. 58 ff., pp. 80 ff.; Fosse, *op. cit.*, pp. 16-60.

⁵³ M. Hauriou (*op. cit.*, p. 615), without making it clear whether he himself is confused by this simple logical fallacy, holds that the instinctive opposition of the French people to plural voting is a conclusive argument against family voting. M. Duguit appears to see more clearly. He says (*op. cit.*, T. II, p. 451): "Il suffit de marquer nettement que le vote plural n'est pas, en soi, contraire à la notion de souveraineté nationale et que l'on peut logiquement, en effet, soutenir que le vote familial est le seul système électoral qui réalise vraiment le suffrage universel intégral, puisque par lui seulement il peut y avoir autant de suffrages émis qu'il y a d'unités composant la collectivité nationale."

the question.⁵⁴ According to one such objection, which would not seem to be of great weight, family voting would result in family quarrels growing out of discord between a father or mother and thinking children.⁵⁵ The advocates of the reform are not without answers to this objection. The view that the vote of father or mother is preferable to that of a child is in general true; the argument that cases of family discord would be few in number is possibly true; but the contention that such quarreling could not be chargeable to family voting appears true only within limits. No one would deny that friction between parents and children exists and would continue to exist without family voting, but it is altogether possible that such a system would furnish an important additional occasion for such disagreement. However, there is an objection of the same order which the advocates of family voting would seem to find more difficulty in answering than any other. This is the argument that the most prolific citizen is not necessarily the best political citizen.⁵⁶ It is possible here only to note the attempted refutation of this contention, expecting a final determination to emerge from the conflicting views. "In family voting," it is argued, "there is no question of reward; there is the question, and it is the only question, of the interest of the child."⁵⁷ That is, the question is one of representation for children; and to divide children into categories according to the worthiness or the unworthiness of their parents would be in violation of the most elementary notion of justice.

Finally, it may be noted that certain arguments against family voting based on the difficulty of practical application of the

⁵⁴ M. Roulleaux-Dugage concludes his article in *Le Matin* with these words: "L'intérêt national est, par conséquent, d'accord avec l'équité sociale pour que cette réforme essentielle soit réalisée le plus tôt possible. Scrutin majoritaire ou proportionnel est d'un intérêt secondaire par comparaison parceque purement politique. Au contraire, la réalisation de cette grande réforme sociale qu'est le suffrage universel intégral présente un intérêt primordial parceque de son adoption ou de son rejet dépendent les destinées du pays."

⁵⁵ Cf. Enfière, *op. cit.*, pp. 30 ff.; Landrieu, *op. cit.*, p. 39.

⁵⁶ Cf. Enfière, *op. cit.*, pp. 35 ff. It was on this ground alone that the adverse committee report of M. Bérard was made in the Senate to the proposal of M. de Las-Cases. See *supra*.

⁵⁷ Enfière, *op. cit.*, p. 38.

scheme are sound objections, whatever may be the weight to which they are entitled. Thus, as an example, the question of what treatment is to be accorded to orphans who are the wards of the state⁵⁸ is very difficult, if not impossible, of solution. On the other hand, such objections of detail result in a tendency to lose sight of the main issue or to see it in false perspective. It appears fair to assume that if the principle involved demands acceptance through its sheer reasonableness and importance, means will not be lacking for giving the principle satisfactory application in practice.

⁵⁸ Cf. *ibid.*, pp. 64 ff.; Landrieu, *op. cit.*, p. 41.

SOME APPLICATIONS OF STATISTICAL METHOD TO POLITICAL RESEARCH

STUART A. RICE
Dartmouth College

This paper deals with the applicability of statistical principles and methods to research in political science. The subject is virgin and comprehensive. At the outset it will be necessary to delimit the treatment to be given it here, and to state some of the premises upon which this treatment will be based.

In the first place, the topic is unrelated to questions of public finance, or any of the bookkeeping aspects of government. I shall confine attention to more fundamental problems, distinctly psychological and sociological as well as political in character. These have to do with the nature and operation of forces that give rise to political activity and that determine its forms and its direction. A socio-political-psychology, quantitative in method, is the goal with respect to which orientation is sought.

In the second place, only data of a kind now available for research will be considered. Every statistician will agree with Professor Merriam's demand for the development and extension of governmental reporting, but my immediate concern is with undeveloped possibilities of utilizing existing materials.

In the third place, the desirability of a quantitative approach to political research problems is taken for granted. Yet the statistical method has serious limitations, not merely because it can never replace logic as a means of interpretation, but also because it is not universally available for scientific inquiry. The developments of recent years in the field of abnormal psychology, for example, have no quantitative method of discovery behind them. When subjective processes give rise to or accompany behavior, measurements of the latter may be possible. But these measurements are no more than indices of states of conscious or unconscious mental activity.

The discovery of objective indices bearing upon the subject of inquiry is an important part of almost any research undertaking. For example, it was desired by the writer to determine the counties of maximum progressive or liberal opinion in Nebraska at the election of 1920. But progressive support was given both to Howell, Republican candidate for senator, and to Bryan, Democratic candidate for governor. The vote for neither alone provided an adequate index of progressivism because of the large element of party regularity in the vote for both. Hence progressivism was defined in terms of a tendency by the voters of both parties to split their ballots on behalf of the progressive candidate on the opposition ticket. An "index of progressivism" was obtained by averaging for every county the percentage of the senatorial vote received by Howell with the percentage of the gubernatorial vote received by Bryan. In much the same way, one of my students, Mr. Francis Wilder, now at the University of North Carolina, has sought to obtain an index of what he calls "political alertness" for the various counties of that state. Regarding independent voting as a measure of alertness, he has aggregated the differences on both party tickets between the vote cast for president and for governor and between that cast for governor and for United States senator. The sum of these four differentials in each county has then been related as a percentage to the total vote for president, governor, and United States senator combined, the result giving an index of the type sought.

I shall not pursue this matter further, but shall assume that indices of greater or less suitability may be found for many subjective phenomena. Political statistics, then, must be limited to forms of phenomena that are themselves measureable, or for which measureable indices may be obtained.

As a fourth limitation, I shall confine discussion to phenomena which may be treated as variable. The statistics of attributes, dealing with data which differ in *kind* rather than in *degree*, is sometimes held to apply with peculiar force to the field of politics—with its votes of "aye" and "no", with its victories of either one candidate or another. The writer has elsewhere advanced reasons for contending that even so discrete a phenomenon as a vote "aye"

or "no" really indicates a variable along a scale, so far as the opinion behind the vote is concerned.¹ A vote, in other words, is a behavioristic index, crude and discrete in form, of a subjective variable. Moreover, even though the individual vote be a discontinuous datum, the collective vote of a social group or a geographic area, regarded as the unit of attention, becomes itself a variable—in quantity, in distribution among candidates or between opposing issues, and in other important respects.

The four limitations already stated pertain to the subject matter of research. A fifth and final consideration involves the statistical methodology to be employed.

If one were to base an opinion upon the titles of the books on statistics now in circulation, he would infer that a great deal of specialization in statistical methodology has taken place. There are, for example, books on business statistics, educational statistics, and so on. It is to be borne in mind that in all such cases the principles and methods employed are essentially the same. Theoretical statistics really falls within the province of the mathematician. It is only the applications which differ, as one passes, say, from business to education. The educator, being unfamiliar with problems of business, and on the other hand having special problems and a special terminology of his own, finds it more convenient to discuss methods of finding averages or variability in terms of the data with which he is familiar. In a similar manner there is need of a "political statistics." But its principles and methods will in all important respects be the same as those which are utilized in their statistical calculations by the psychologist, the business forecaster, the public health administrator, or the meteorologist.

The primary task of the present paper, then, is to show the applicability to political science research, within the limits that have been described above, of statistical principles and methods that are already in common use in other fields of inquiry. The burden of this task can best be carried by means of illustra-

¹ "The Political Vote as a Frequency Distribution of Opinion," *Journal of the American Statistical Association*, March, 1924.

tions, which will be taken, except as otherwise noted, from the writer's own research.

Individuals of homogeneous type present a variety of variable and comparable characteristics. Thus individuals of the type "male student of Zeta College" may be compared in the characteristics of height, weight, intelligence, academic rating, length of nose, distance of home residence from the college, or chest expansion. All of the individual measurements of one characteristic, considered independently of the others, constitute a series of mass phenomena susceptible of summary statistical description.

Of such a series at least four questions, important for interpretation of the phenomena, may be asked: First, are the individual measurements distributed about some point or points of concentration? Second, is there a representative value or *average* which for a given purpose may be used in place of the individual measurements collectively? Third, do the individual measurements differ widely or narrowly from each other; that is, what is the extent or the degree of the aggregate variability among them? Fourth, do individual values in one series tend to vary concomitantly with corresponding values in other series? The latter question, involving correlation, is important in the discovery of causal relationships.

From this point onward I shall attempt to show that all of these four questions arise in connection with political research problems and that statistical methods are therefore needed in their solution.

Many human characteristics are distributed normally. Suppose, for example, that the heights of Zeta college students are ascertained to the nearest inch, and that the data is then plotted on coördinate paper. The variable, height, will be indicated by intervals of distance from the point of origin along the base line. The number of men at each interval may be shown by ordinates erected according to a vertical scale of frequencies. If the tops of these ordinates be connected and the resulting line be smoothed, an approximation to the bell-shaped mathematical curve known as the curve of error will result. This is an important fact, because upon it much refined statistical analysis may be based, including prediction concerning the heights of students not included in the

data. If political phenomena tend to be distributed in similar manner, it will be evident that some beginning of statistical prediction concerning these phenomena will be possible. Let us examine the data provided by a particular research problem.

I am working with election returns which reflect the so-called radicalism or progressivism of some of the middle-western states. In particular, I am seeking to discover whether the attitudes and

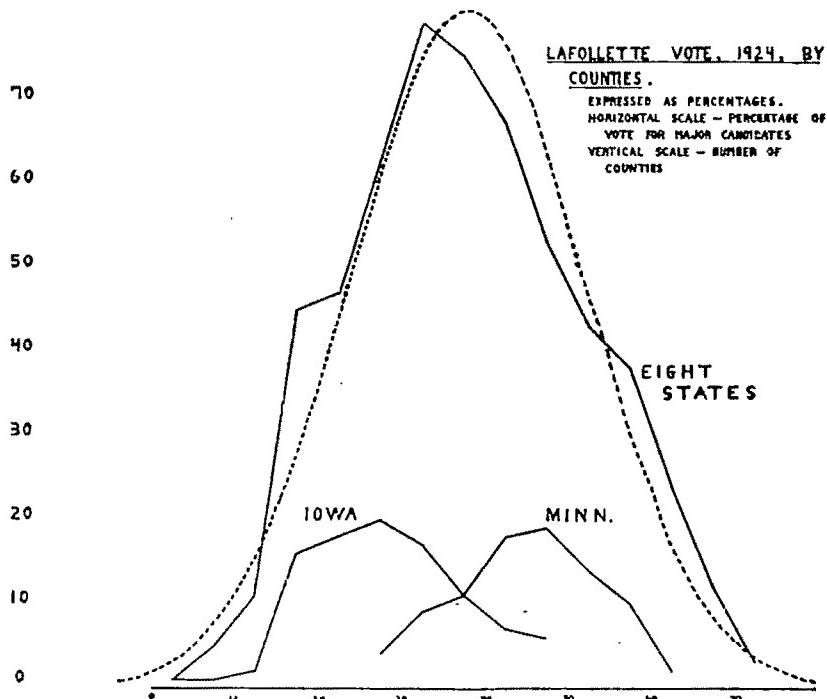


FIGURE 1.
LA FOLLETTE VOTE, 1924, BY COUNTIES

opinions involved tend to diffuse or spread in the characteristic manner posited by the American school of anthropologists of culture traits in general.² As a corollary, I am trying to learn in the case of these attitudes whether, as Wissler contends,³ political boundaries interpose little or no obstacle to the diffusion of culture

² Cf. Clark Wissler, *Man and Culture*, especially Chapter IV.

³ *Ibid.*, 12-18, 42-43, 136, 138 and *passim*.

elements. As an index I have taken the LaFollette vote for president in the election of 1924, relating it as a percentage to the total vote for the three major candidates. The county has been adopted as the unit for this purpose. The results of these inquiries are not of concern at the moment. The point of present interest is that when the counties of these states are arrayed according to the degree of support given to LaFollette, their distribution, while somewhat "skewed," approximates in form the same normal frequency curve which will describe the heights of Zeta College men. This is shown in Figure 1. The large irregular curve represents the 566 counties of Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Montana, and Idaho, distributed according to the percentage of the LaFollette vote. These are states in which the candidate was held to have a chance of victory. The broken bell-shaped curve which roughly synchronizes with this represents the distribution that would be mathematically normal for the same data. The two smaller curves represent the actual distribution for the counties of Iowa and Minnesota respectively. The distribution for the eight states aggregated is shown in Table I.

TABLE I

Distribution of counties in eight "LaFollette" states, according to the percentage of the vote given LaFollette among the three major presidential candidates in the election of 1924.

<i>Percentage of LaFollette</i>	<i>No. of Counties</i>
0.0—4.9	1
5.0—9.9	5
10.0—14.9	11
15.0—19.9	45
20.0—24.9	47
25.0—29.9	63
30.0—34.9	79
35.0—39.9	75
40.0—44.9	67
45.0—49.9	53
50.0—54.9	43
55.0—59.9	38
60.0—64.9	24
65.0—69.9	12
70.0—74.9	3
	—
	566

"LaFollette sentiment," as indicated by the LaFollette vote, then, is found to be distributed normally, or approximately so, among the counties in a wide geographical area which was generally favorable to his cause. What was the *most representative* expression of LaFollettism among these counties? The percentage of the LaFollette vote over the area as a whole does not answer this question because of the wide differences of population. Resort must be had to a procedure which is often illegitimate, namely, the averaging of the individual percentages. For the 566 counties of the eight states under examination the three averages in most common use are found to be as follows: arithmetic mean, 37.9 per cent; median, 37.1 per cent; mode, 35.5 per cent. The relatively close correspondence between these three average values again confirms the normality of the distribution. Any one of the three gives a closer representation of the usual or typical county situation than does a single percentage which uses the state or the region as a base.

Having calculated average values, one of these may be used from which to measure variability. The concept of variability itself may be illustrated. Assume that the men of Zeta College possess a mean height of 68 inches, and that we wish to compare their heights with those of the members of a circus troupe. The latter will include a number of midgets and several side-show giants. The average height of the circus may turn out to be the same as that of the Zeta students, namely 68 inches. Yet it is obvious that the two groups differ widely in the extent to which the individuals in each approach the average height. That is, they differ in variability. Similarly, it is possible that of two states giving approximately the same support to LaFollette so far as aggregate returns are concerned, one may have the favorable attitude quite evenly spread over the entire state, while in the other LaFollette sentiment may be strongly developed in some counties and substantially absent from others.

To take an actual case, the variation in the percentage of LaFollette votes in the state of Montana is from 15.0 in Meagher County to 67.3 in Mineral. The range is thus 52.3 per cent, or more than half of the possible variation. In Minnesota, although

there are half again as many counties as in Montana, the range of variation is but two-thirds as great. It extends from 25.7 in Rice County to 64.6 in Pennington. The range is 38.9 per cent. It might be suspected that certain factors connected with the social or economic homogeneity of the two states, with the comparative extent of their areas, or with their facilities for communication, had something to do with the greater homogeneity in radical opinion that is indicated in Minnesota.

The range, however, is an inadequate measure of variability. For accuracy of comparison, we must utilize measures which take account of the values of *all* of the individual measurements. This necessitates the calculation for each state of either the average deviation or the standard deviation, and the reduction of either of these to a coefficient of variation. The latter permits of the direct comparison as to variability of series having different kinds of units or, as in the present case, similar units but averages of differing value.

TABLE II

Percentage of the vote received by LaFollette in certain states and areas, based upon the combined vote for the three major presidential candidates in the election of 1924.

State or Area	Number of Counties	Mean of	Standard Deviation	Coefficient of Variation
		County Percentages		V
I	II	III	IV	
Wisconsin.....	71	54.3	10.35	19.1
Minnesota.....	87	45.0	8.60	19.1
Iowa.....	98	28.5	9.53	33.4
North Dakota.....	53	49.4	11.59	23.5
South Dakota.....	68	34.9	12.47	35.7
Nebraska.....	93	25.5	10.16	39.9
Montana.....	55	35.6	11.38	32.0
Idaho.....	44	35.3	7.93	22.5
The above 8 states combined..	566	37.9	13.98	36.9
Maine.....	16	5.07	2.067	40.8
North Carolina.....	100	1.145	1.347	117.6
Michigan.....	83	11.4	6.576	57.7

Using the same data as before concerning the LaFollette vote, coefficients of variation have been calculated for a number of individual states, including Michigan, Maine, and North Carolina, and the eight states previously mentioned in which his prospects

were regarded as favorable, together with the combined area of the latter. These are included in Table II. It should be remembered that a low coefficient of variation is indicative of a high degree of homogeneity with respect to the LaFollette vote.⁴

The table is suggestive. In Wisconsin and Minnesota, where LaFollette sentiment was strongly developed, the coefficient of variation was in each case 19.1 per cent. In Michigan, where the candidate was somewhat less successful than in the country at large, it was 57.7 per cent. In North Carolina, where LaFollette support was practically confined to isolated railroad centers, it was 117.6 per cent. In Idaho, a state in which geographical and cultural homogeneity are strikingly low, the coefficient was 22.5 per cent; while in Iowa, which is exceptionally homogeneous in the same respects, it was 33.4. In both of the latter states LaFollette received moderately strong support, although this support was stronger in Idaho.

These figures indicate that LaFollette strength was positively related to low relative variability among these percentages. It is not clear whether this relationship is due to anything more than the fact that the coefficient of variation is itself a function both of the standard deviation and the mean.⁵ If there is a relationship in addition to that involved in this dependence, it would suggest that economic and social homogeneity may not be so essential for the diffusion of political attitudes as is the strong development of the latter at the points from which they spread. It is possible that an equation could be calculated from data of this sort which would express what might be called the *velocity* of diffusion, as a function of the comparative degree to which the attitude had already been accepted. The relationship, assuming its existence, might be expected to prove non-linear, the velocity accelerating up to a certain point, after which deceleration would set in.⁶

⁴ This is not equivalent to political homogeneity in general, which is not of present concern.

⁵ The coefficient of variation equals 100 times the standard deviation divided by the mean. The relationship in the case of the 11 states included in Table II, ascertained by the method of correlation by grades, is expressed by the coefficient of correlation, $r = .94$.

⁶ "Diffusion" as here used implies something more than the mere spread of acquaintance with an attitude, or the ideas upon which it is ostensibly based.

The meaning and use of the coefficient of variation in such a connection are not sufficiently understood to give more than suggestive value to such a hypothesis here. I confine myself at this point merely to suggesting one direction in which statistical methods of determining variability may yet throw light upon an important social and political phenomenon.

I come now to the last of the four types of questions which statistical methods enable us to answer concerning variable series, namely, those concerning correlation. The problem is, whether political science research requires the use of correlation methods, and again I shall endeavor to demonstrate by illustration that it does.

In one type of case we are interested in concomitant variation among the individual measures in two series which are static in character. For example, some of my students have been seeking to learn whether the percentage of LaFollette votes in 1924, a static variable by counties or other minor political units, is correlated; positively or negatively, with such variables as the

That which is being spread is an acceptance of the attitude by individuals. It is regarded as a process which may still be going on after some individuals in a given community have adopted the attitude. This use of the term may seem objectionable, but the term itself is the most appropriate that has been found to express the meaning. The term "velocity" is used because it implies the rate at which this acceptance of attitude is taking place. The rate of acceptance within a group of individuals is obviously dependent upon the speed with which acceptance is taking place within individual members of the group. This, it may be supposed, is to no small degree dependent upon the frequency with which the attitude is exhibited to one individual by other individuals, that is, upon the reiteration of its expression. That is, when A and B express the same attitude to C, the effect upon C's attitude is probably greater than the mere sum of the effects of A's and B's attitudes, each taken independently. As the number of individuals having the same attitude increases, the number of separate contacts between those and other individuals will increase in the same ratio. The probable number of duplicate or reinforced contacts with these other, nor-infected, individuals will, however, increase at some rate greater than that of the total number of contacts. It follows from this that the rate of acceptance will for a time accelerate, because of the proportionately greater chance of reiteration. Deceleration would result from the principle of diminishing returns from reiteration. Continued reiteration of an attitude by others, that is, might eventually cease to have any effect upon the unconverted individual. These suppositions, reminiscent of Gabriele Tarde's "Laws of Imitation," are, of course, wholly speculative at present.

percentage of voters of German birth or extraction, the per capita farm values in agricultural districts, and farm tenancy and farm mortgaging. That is, we have sought for explanation of the LaFollette movement in various presumed causes of nationalistic or economic discontent. Again, by use of the questionnaire method, we have endeavored to rate the comparative radicalism of certain state legislators,⁷ and relate this, in turn, to the radical proclivities of the various districts represented, with the LaFollette vote as an index of the latter. The effort here has been to test the "representativeness" of state legislators.

In another type of inquiry what is sought is a measure of the relationship between two series of data, each of which varies over a period of time.

Variations in such data may be due to one or another of four types of causes. There are, first, those factors whose influence operates with a degree of constancy, or a degree of constant change, over a relatively long period of years. The effects of these factors, when isolated, give rise to what is termed "secular trend." There are, next, those which result in cycles of several years duration, giving rise, when isolated and plotted, to a more or less wave-like curve about the line of trend. Third, there are frequently seasonal influences, causing a somewhat rhythmic pulse within the yearly period. Lastly, there are fortuitous factors like the World War, unassociated with the trend, the cycle, or with seasonality. The methods of correlation may reveal certain regularities of relationship in the seasonal or the cyclical variations of two time series; but it is first necessary to segregate the effects upon the data of the four types of influences just named. The determination of any one of the four may be an important end in itself.

It is obvious that political opinion offers few, if any, indices of a sort from which seasonality could be determined if it exists. Even data from which annual indices of opinion may be derived are none too frequent. I shall attempt, however, to demonstrate

⁷ By a schedule similar to that of Professor Henry T. Moore, in his article "Innate Factors in Radicalism and Conservatism," *Journal of Abnormal and Social Psychology*, October, 1925.

that long term, or "secular," trends and cycles do exist in certain political phenomena, and are susceptible of statistical analysis.

For experimental purposes, I have developed a number of series of data, each of which may be regarded as providing a reflection in some degree of political opinion. Several of these have been based upon the vote of Assembly candidates in New Jersey, from 1877 to 1924 inclusive. This is a state in which annual elections are held, in which Assembly candidates have usually run for office under the banner of a recognized party, and in which the vote for the individual party designees has been officially recorded in the state Legislative Manual during the period named.

For each year, aggregating the vote for individual candidates in the twenty-one counties, I have computed on several bases the percentages of the votes which were cast for Republican candidates, for Democratic candidates, and for minor party candidates. The fact that these percentages refer to the aggregate vote for a number of candidates tends to neutralize the effect of personal popularity or unpopularity in the case of individuals. The result is a truer indication of the party vote in each year than would be, say, the vote for governor, president, or congressmen. It was felt that the changing percentages of Republican votes, with reference to the combined Republican and Democratic votes, let us say, would be some indication of what is sometimes called the pendulum of political opinion. The changing percentages of the minor party votes, with reference to the total of all parties, would give some index of the growth or subsidence of dissent from both of the major party organizations.

These series have been treated in the usual manner, trends being determined empirically according as a straight line or a parabola of lower or higher degree seemed to provide the "best fit."⁸ One methodological problem was presented by the consistent increase of the Republican vote, both absolutely and relatively, in the quadrennial presidential elections. In the derivation of cycle figures correction was made for this tendency by the calculation of what I have called in my notes an index of

⁸ Cf. for example, F. C. Mills, *Statistical Methods*, Chap. VII.

quadrennial variation. The method employed in obtaining the latter was similar to that which has been used by Professor Warren M. Persons in making correction for seasonality.⁹ Without going into further discussion concerning these particular series, I may say that fairly well-defined trends and cycles appear in some of them, even apart from the quadrennial influence, but that no very significant correlation has yet been found to exist between the cycles disclosed and cycles in other series of social and economic data. The highest coefficient of correlation that has been obtained is that between the corrected cycle figures for the percentage Republican of the total vote and the cycles of business indices used by Ogburn and Thomas.¹⁰ Without lead or lag, this was $-.247$. The curves representing the two series of cycle figures are shown in Figure 2. No light has been thrown in general, therefore, upon the causes of these political changes.

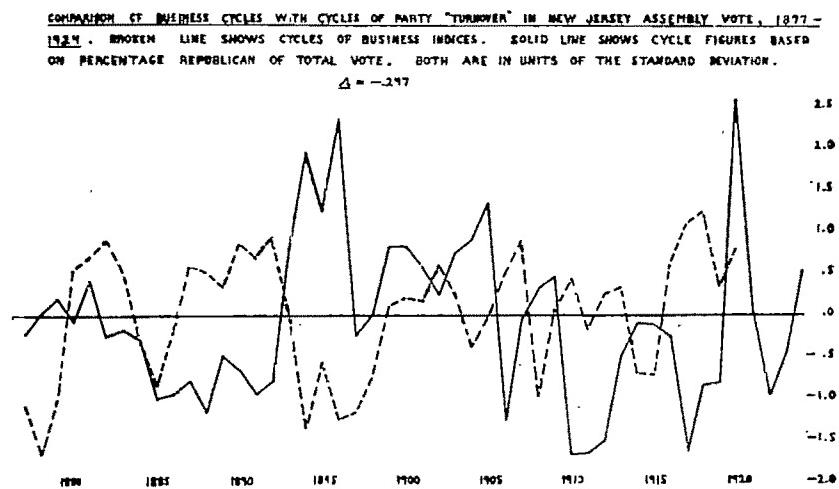


FIGURE 2.

COMPARISON OF BUSINESS CYCLES WITH CYCLES OF PARTY "TURNOVER"
IN NEW JERSEY ASSEMBLY VOTE, 1877-1924.

Four other series have been based upon biennial rather than upon annual determinations. I have ascertained (1) the median

⁹ *Review of Economic Statistics*, January, 1919, pp. 18-31.

¹⁰ "The Influence of the Business Cycle on Certain Social Conditions," *Journal of the American Statistical Association*, 1922, pp. 324-340.

age of all members of the United States House of Representatives from the First to the Sixty-eighth Congress inclusive; (2) the median age of the members serving their first term in each of these Congresses; (3) the percentage of members in each session serving a first term; and (4) the average experience of the members of the House in each Congress. In calculating the latter, the numbers of terms previously served by members at the beginning of each biennial period have been added, and the total divided by the number of members.¹¹ Other series could be constructed from the variability among the members' age or experience during the several sessions.

The Congressional Directory has provided the necessary data for recent sessions. For the period prior to the Sixty-Second Congress, they were taken from the ten or twelve thousand individual biographies contained in the Biographical Congressional Directory.¹²

To none of these series has it been found feasible to fit curves covering the entire period of one hundred and thirty-six years. Good fits in most cases have been obtained, however, by breaking the series into smaller segments. The lines connecting the original plottings, together with fitted curves and their equations, are shown for several of the series in Figures 3 to 6.

It is apparent that down to the Civil War period there were trends in the direction of electing younger men to Congress and retaining members there for shorter periods of time. From the Civil War period onward the age of first-term members has increased, reaching especially high averages with the men elected in 1890, 1910, and 1922. With this change came about a tendency to leave congressmen in office for longer periods of service. As would be expected, there has resulted a greatly increased average age of all members. As to the causes of these changes, the lengthening expectation of life is perhaps an important factor, but one for which no statistical allowance has yet been made. The opinion may be hazarded that another factor has been a

¹¹ Some slight modifications of this method were employed, which it is not essential to describe here.

¹² Sixty-first Congress, 2nd Session, Senate Doc. 654.

gradual departure from the Jacksonian type of democratic sentiment which prevailed during the time when the curves were trending downward. As to the results of these changes, no sta-

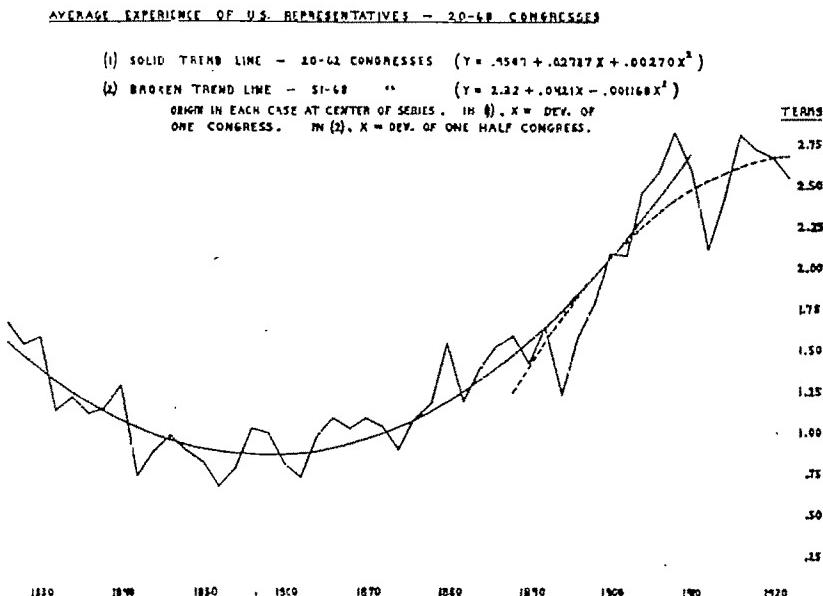


FIGURE 3.
AVERAGE EXPERIENCE OF U. S. REPRESENTATIVES—20-68 CONGRESSES

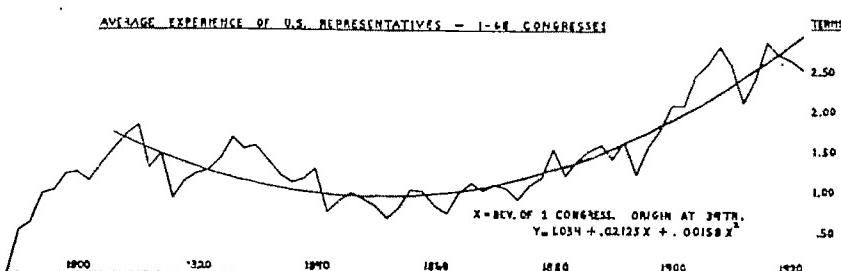


FIGURE 4.
AVERAGE EXPERIENCE OF U. S. REPRESENTATIVES—1-68 CONGRESSES

stistical statement can be made. It seems obvious from an *a priori* standpoint that increasing age and increasing average tenure of

service would both be influences making for conservatism in legislation.

Once more it must be pointed out that while the existence of trends susceptible of description by mathematical equations, and the existence of cycles about these trends (as shown in the accompanying charts), seem demonstrable, significant correlations with other economic and social data have not yet been discovered. One exception may be noted. For the variable "average experience," I have fitted a parabolic trend line, concave down-

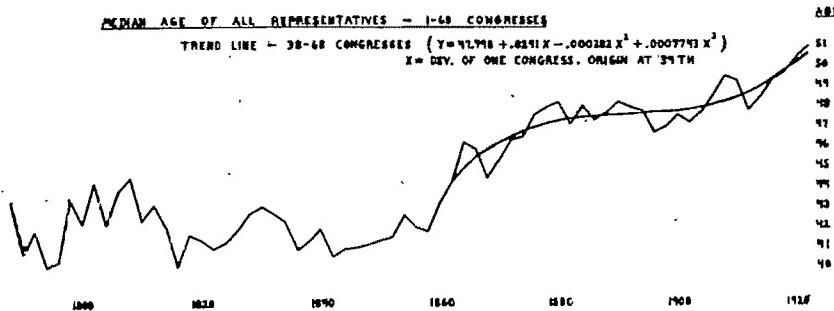


FIGURE 5.
MEDIAN AGE OF ALL REPRESENTATIVES—1-68 CONGRESSES

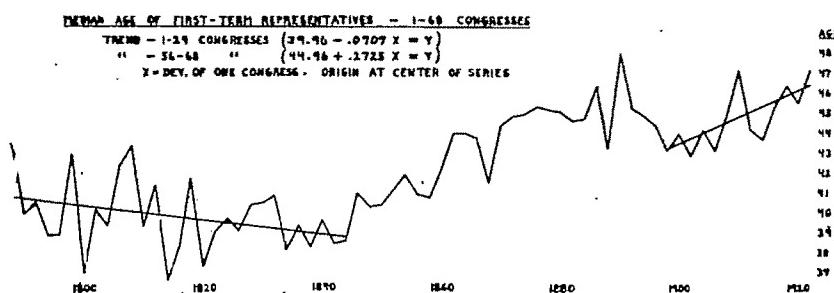


FIGURE 6.
MEDIAN AGE OF FIRST-TERM REPRESENTATIVES—1-68 CONGRESSES

ward, for the sessions from the Fifty-first to the Sixty-eighth inclusive, that is, from the elections of 1889 to 1923. With the biennial deviations about this line, I have correlated figures

representing the mean of the business cycle figures used by Ogburn and Thomas for the corresponding year and the year preceding. This has given me a positive coefficient of correlation of .449, suggesting some relationship between business prosperity and the state of mind in the electorate which results in the reëlection of experienced congressional incumbents.

To sum up, this paper has aimed at demonstrating some of the possibilities of applying statistical principles and methods to political phenomena. In the illustrations used, I have not been concerned with stating the results of statistical inquiry in any single direction, but rather with exhibiting some methods of statistical attack upon problems of political and social psychology with which I have been personally concerned. My greatest hope is that I may have succeeded in clearing a little of the ground upon which the development of political statistics may proceed.

LEGISLATIVE NOTES AND REVIEWS

EDITED BY VICTOR J. WEST

Stanford University

Governors' Messages.¹ *Taxation.* Modern scientific principles of taxation are slowly making their way with the state executives. Al-

¹ Twenty-two messages of thirteen governors are reviewed as follows: John W. Martin, Florida, regular session, April, 1925, and special session, December, 1925; Clifford Walker, Georgia, regular session, June, 1925; W. J. Fields, Kentucky; Alvan T. Fuller, Massachusetts; Alexander J. Groesbeck, Michigan, special session February, 1926; Henry L. Whitfield, Mississippi, three messages; Harry A. Moore, New Jersey; Alfred E. Smith, New York, two messages; Gifford Pinchot, Pennsylvania, special session, 1926; Aram J. Pothier, Rhode Island; Thomas G. McLeod, South Carolina; Harry F. Byrd, Virginia, three messages; Roland H. Hartley, Washington, special session, November, 1925, four messages. Several governors announced an intention to submit other communications later, but none of these was received by the writer. In case nothing to the contrary is indicated, these messages were delivered to regular sessions of the legislatures this year, with the exception of two of Governor Whitfield, who sent out a preliminary special message in May, 1925, dealing with the revision of the anti-trust laws and the simplification of administrative agencies, and announcing the appointment of a committee of seven representative lawyers to prepare recommendations for the legislature upon the former subject. In November he submitted the findings of the committee, accompanied by comments of his own. Governor Walker's message was devoted almost entirely to a discussion of taxation and support for the educational institutions of the state. The outstanding topics touched upon by Governor Fields were finances, highways, administrative regulations to prevent the loss of public funds, prison labor, and pardons. Governor Fuller's attention was directed especially toward the administration of justice, public safety, and public utilities; Governor McLeod's to taxation; Governor Pinchot's to election reform, regulation of the coal industry, and development of hydro-electric power; one of Governor Byrd's messages was devoted largely to taxation and another to simplification of government. Governor Hartley was concerned chiefly with the educational system, taxation, and the sale of the timber resources of the state; Governor Moore, with taxation, elections, and coal supply; Governor Smith, with the various social services of the state and the improvement of administration. The latter also presented a special message dealing with his policy of hydro-electric power development. The Ohio legislature held a one-day session January 15, 1926, and passed one act intended mainly to permit one or two counties to overcome the existing limitations of the tax laws and obtain sufficient funds for operating expenses. The governor did not call the session nor send a message. In recent years this legislature, especially when the governor is not of the same party as the majority, has adopted a practice of recessing at the regular session to a fixed date, unless recalled sooner by a committee composed of officials of the two houses.

though Florida in 1924 prohibited by constitutional amendment both income and inheritance taxes, the state in 1925 authorized the legislature to tax intangibles, heretofore not taxable. Governor Martin reminds the legislature of this mandate of the people. The general property tax is criticized in Georgia in the most approved manner, the governor remarking that "the only real uniformity about our present system is the uniformity with which all men owning invisible property succeed in escaping taxation"; he comes out vigorously for a classification system and an income tax. Classification is asserted to be the only means of materially correcting and modernizing the Washington tax system. Recent hearings before the state board of equalization brought forth the admission from the former supervisor of taxation that the valuations which the railroads were striving to compel the state to restore were prepared in the offices of one of the plaintiff companies.

In Kentucky the Porter Act is credited with raising the valuation of both tangible and intangible property about twenty-five per cent. The rate on agricultural lands has been reduced twenty-five per cent by law. Governor Fields believes that real estate should be relieved of all taxation for state purposes and that new sources of revenue should be found in taxes on manufactured tobacco and luxuries such as theater tickets and soft drinks. In addition, he would separate state and county taxes, as state and municipal taxes are now separated, meaning, perhaps, in their collection, as a temporary step prior to the segregation of sources.

A reduction in the state receipts from *ad valorem* taxes from sixty-nine per cent of the total in 1922 to fifty-nine per cent in 1925 is noted in Mississippi. The assessed value of both tangible and intangible property in the state, the governor points out, is about one third of the tangible property valuation in the state as recorded in the report of the United States Department of Commerce. As a partial remedy he suggests that the assessment of property be made in the even rather than in the odd, or "political," years. In 1923, when all state and county officers were to be elected, the total valuation fell off over \$30,000,000. He recommends a mandatory annual or semi-annual conference of all the assessors of the state under the auspices of the state tax commission; also the listing of all property for which exemption is legally claimed, and the erection of the county assessor into a full-time officer compensated in proportion to the total valuation of his county and the number of assessed citizens on his rolls. He believes that foreign securities owned within the state might better be exempted from taxation until such time

as the organic law permits a classified property tax. A tax on cigars and cigarettes is urged for school purposes.

Coming to the defense of recently enacted indirect taxes in South Carolina, such as that on soft drinks, and approving the retention of the income tax and the inheritance tax, Governor McLeod admits an inequality of taxes as between classes of property and between owners of the same kind of property, due to the inequality of valuation. He again urges the assessment of vacant town and city real estate at its full value. He advocates the inauguration of such a system as will relieve physical property of any levy for state purposes and an amendment of the constitution to permit classification. As to assessment, "no two counties have the same method." "Equality will never be had under any form of local assessment." The elimination of a large number of local assessors, and state supervision of the remainder, is the remedy suggested.

Segregation of state and local sources of revenue is also advised by the governor of Virginia, largely as a means of correcting the inequality of assessment and preventing the evasion of taxes on intangibles. He would reduce the rate on stock in foreign corporations, the rate on capital, and on notes and bonds, but would increase the rate upon incomes above \$5,000 and would take more energetic steps to collect delinquent capitation taxes and would abolish the offices of 370 land assessors, while permitting the localities to order reassessments whenever desired and through their own machinery. Of state tax administration, he says "an ex-officio board cannot get efficient results"; and he would provide a full-time chairman to be associated with the governor and auditor. Governor Moore, of New Jersey, would repeal outright the state mill tax for roads and the half-mill tax for institutional buildings, because the money accumulated without these is adequate for the purposes as he conceives them.

Budgets, etc. There are comments on the problem of the budget in a number of the messages, indicating a tendency to find the half-way measures tried in some states unsatisfactory from the governor's viewpoint and a desire to increase his power and responsibility. To be a mere transmitting authority for the estimates of the various institutions and departments does not suit the Mississippi executive, and he asks that the auditor and treasurer be associated with him as a budget commission with power to revise estimates and make specific recommendations. The establishment of a comprehensive budget system under the control of an agency independent of any existing public office is urged in Rhode

Island—perhaps a state commissioner of finance with power to pass upon all financial measures of whatever nature before legislative action thereon—and an arrangement whereby, in case the annual appropriation bill shall not be passed before a certain date, it shall be presented to the governor with the full effect of passage by the general assembly.

The Virginia governor recommends that all funds from state taxes be budgeted and expended only upon the warrant of the auditor, and that all segregated funds be abolished with the exception of the gasoline and automobile license taxes. He would forbid, by law apparently, the legislature to increase items of the budget submitted by the governor and require additional appropriation bills to receive separate consideration and be accompanied by revenue measures to supply the amounts appropriated. Governor Smith holds that there can be no permanent reform of the state's financial structure except by constitutional provision for an executive budget. Governor Hartley requested the first regular session of the legislature at the beginning of his term to make appropriations necessary for one year only and delay those for the second year until he should have time to study the needs of the state and present them to a special session which it was understood he would call. He recommends that the department of public works, the divisions of banking, dairy and livestock, weights and measures, and horticulture, be placed upon a self-supporting basis by means of the collection of fees for their services. He believes much overlapping of state and city inspection in health and safety matters could be eliminated. Governor Fuller, of Massachusetts, would likewise make the banking department self-supporting and would provide a system of fees to meet the costs of the probate court services, and raise the fees for other state services.

Relations of State and Local Governments. The relations of the local government units to the state are not yet satisfactorily determined in many places, if indeed they can ever be anywhere for any considerable length of time. Local powers and limitations remain in a state of flux. Sometimes conditions almost shake one's faith in the merits of local self-government. The special session in Florida was called for the enactment of local legislation as advertised in accordance with law, and the enactment of needed municipal legislation, but no details were mentioned.

A budget commission is desired for each county in Kentucky, with the astonishing assertion that in many counties "it would be impossible for any citizen, even by the most diligent search, to ascertain how much revenue the county is exacting from the people and how and by whom

and for what purposes that revenue is being disbursed." A uniform system of accounting, enacted in 1914, has been entirely ignored by many officials, although penalties of not less than \$25 for failure to use the prescribed blanks was attached. Attention is called to the constant loss by the state of the amounts due from the counties on fines and forfeitures, totalling \$150,000 in unsatisfied judgments in sixteen counties, according to a recent report of the state inspector. Fewer than five per cent of the circuit court clerks file the reports required by law regarding unpaid fines. The governor proposes that the state inspector and examiner be authorized to make collections by means of prosecution in the state's fiscal court.

Governor Whitfield thinks the time has come for Mississippi to limit the county levies. As a means of securing a reduction of county expenditures, he would have the supervisors elected by the voters of the entire county, although still required to reside one in each of the supervisor districts. In Rhode Island the state board of health should, in the opinion of Governor Pothier, be given the power to remove local health officers for neglect of duty and to appoint or confirm the appointment of others. There are five times the number of necessary magistrates and constables drawing salaries throughout the state of South Carolina, frequently controlled by the politics of the locality, and often inadequately discharging their duties, when they have any duties to discharge. Governor McLeod would reduce them to the number of representatives in the lower house of the legislature. The Virginia governor presents a comprehensive program of local government reform: taxpayers' opportunity to criticize the proposed budget at public hearings; thirty days notice of any proposed increase in the tax levy, together with a public hearing; the requirement of popular approval for any issue of bonds; regular audits by the state accountant, with authority to disallow illegal expenditures; and the publication of the discovery of any shortages in funds.

The number of counties in New York could well be reduced, thinks Governor Smith, who again advocates general permission of municipal ownership of public utilities and local regulation of those operating entirely within the boundaries of single municipalities. In Washington attention is called to the report of the Investment Bankers of America, showing that seventeen counties have local improvement district bonds outstanding to the amount of three and three-fourths million dollars and admit defaults of almost a million and a half. The governor would make the creation of a guarantee fund mandatory instead of optional

with the municipalities and give city councils discretionary powers over the erection of local improvement districts, which are now brought about through the activity of promoters and bond salesmen. The fee system comes in for criticism in Kentucky, where county and commonwealth attorneys sometimes collect their maximum allowance in fines and forfeitures in the first few months of the year; in Mississippi, where the attorney general is still paid a commission and a salary, the former amounting to over \$37,000 for the collection of income taxes from twenty taxpayers in 1925; and in Virginia, where the governor thinks publicity should be given to the amounts received.

Highways. Zeal for the construction of highways seems to be somewhat abating, although Governor Gresham holds the paving, widening, and general improvement of the trunk-line system of the state the most important and useful work his state is engaged in. Additional taxes on gasoline or oils, or on trucks and busses, or increased license fees, receive approval in Florida, Kentucky, Virginia, and Mississippi. In New York the motor vehicle law enacted at the last session is regarded as responsible for taking almost ten thousand drivers off the roads in eleven months with licenses revoked or suspended, and also for a reduction of 208 in the number of deaths caused by motor vehicle accidents. Of the good-roads movement the governor of Washington says: "If the analysis of this public demand for good roads is carried far enough, it will be ascertained that it is but the echo of the clamor of the cement crowd, the material men, the machinery folk, the contractors, the automobile club secretaries, and the great army who are living off of, some of them growing wealthy from, highway construction."

Education. Concern for education is manifested in a number of the messages, but generally not accompanied by any unusual recommendation. In New York a special bureau of mental hygiene in the department of education is advocated, and the value of preventive activity is emphasized in dealing with mental disease. Governor Hartley, noting that education absorbs the bulk of the tax money, and realizing that written large over the portals of the public schools is the warning, "hands off," questions the belief of some people that a school dollar, no matter how expended, is well expended. He declares that, as a result of this attitude education is the biggest business of the state and the most neglected in so far as business thought and management are concerned. He is contending for more education for less money. He charges the educational heads with setting up their institutions as something apart from, rather than a part of, the state government. He would replace the separate

boards for the several institutions of higher learning with a non-salaried board of nine members appointed by the governor, one each year, for terms of nine years, and would subject to the authority of this board the common schools as well, after abolishing the elective state superintendent. Fixed tax levies should be abolished. He shows that the theory of state aid—equalization of opportunity—is not being realized, since the richest county in the state receives from the school fund more than it contributes and that poorer counties receive less than they pay.

Law Enforcement, etc. Law enforcement needs are touched upon, especially in Kentucky, Massachusetts, and Washington. In the first state, the governor would appoint a safety commissioner and deputy with authority to select as many assistant commissioners throughout the state as necessary, these to be paid a liberal per cent of the fines collected from offenders arrested and prosecuted by them. In the second, specific changes are advised as follows: the repeal of the law allowing county officials to release prisoners, the denial of a parole after the second conviction for a felony, permission to the governor and council to suspend at any time the operation of the parole law so far as it deals with the release of convicted prisoners, precedence for the trial of persons accused of crimes of violence, and an enlargement of the powers of the judiciary so that they may guide and control the procedure of criminal justice. An unusual device is recommended in Mississippi to enable honest individuals and corporations to keep within the anti-trust law by securing from the attorney general an opinion on the legality of any action taken or proposed. Time would be allowed for the correction of action pronounced illegal, in order to conform to the official ruling, and approval of the attorney general would constitute a good defense to any suit founded upon the actions described, as long as the opinion should not be modified or withdrawn.

The governor of Kentucky would require the judge, instead of the jury, to fix the penalty. He asserts that he has issued less than one third the number of pardons granted by either of his predecessors in an equal length of time and yet in the year following November 1, 1925, more than ninety per cent of his official hours, and in addition many nights as well, were spent listening to pleas for pardons. He believes that not more than two per cent of all requests are worthy of attention. The statement of the governor of Washington, although probably not so intended by him, comes too close to expressing the backward attitude of many of our officials and citizens generally to arouse lively hope for much improvement in the immediate future: "In handling our penal

and eleemosynary institutions, we are dealing with a question over which we have but little control. The criminal, the insane, and the defective are with us and must be cared for."

Nominations and Elections. The manipulation of elections which has been going on in Pennsylvania caused Governor Pinchot to appoint an investigating committee of seventy-six. Its disclosures are sickening: fictitious registrations, falsification of returns, perjured election officers. What official practices these things would be preliminary to can be imagined. A program of changes includes the mandatory opening of ballot boxes on the petition of five electors, the restriction of assistance, elimination of the "chain system" of voting, permanent registration in cities of all classes, signature of the voter on receipt of the ballot (presumably for identification), the abolition of the tax qualification for voting, legalization of the appointment of overseers from outside the election districts in which they are to serve, prohibition of the presence of political workers at the polls, the optional use of voting machines by any township, borough, or city, and authorization of the legislature to compel the use of these machines in any particular city.

Governor Smith would restore the direct primary for the nomination of all candidates, and Governor Moore opposes the attempt to return to the convention for the nomination of candidates for governor and United States senator, a system by which "a few powerful men, representing the great financial interests, will be able to control the nominations of both parties. . . ." At the same time he urges a return to the single-member district for members of the assembly (now elected from the county at large), because it is impossible for an independent to carry on a campaign throughout the large counties and the result has been that the picking of assembly candidates in such counties has become largely the function of the political organizations, which have every advantage. He objects to the proposal to change the governor's term to four years and to hold the election in the presidential year. In Massachusetts biennial sessions of the legislature are again recommended and the elimination of many useless oaths and certificates now required to such an extent that there are 35,000 justices of the peace and notaries in the state and oath-taking is largely perfunctory and frequently devoid of any essential meaning.

Housing. Two of Governor Smith's proposals have attracted the attention of the country. The commission on housing and regional planning shows in its report that many of the old, dilapidated tenements condemned after the investigations of twenty-five years ago are still

being used for dwellings. The construction of certain types of homes for wage-earners of moderate means is pronounced unprofitable. The two prime essentials of a solution of the problem are the provision of money at low rates of interest and the use of the power of condemnation of land to secure large parcels at reasonable prices. He proposes the creation of limited dividend corporations possessing the power of condemnation and believes municipalities should be permitted to issue tax-exempt bonds the proceeds of which may be loaned to these corporations. A state housing bank could be used as an alternative source of capital.

Water-power. Of the water-power problem, Governor Smith says: "All of our history shows that once we give long leases of state property upon which a great deal of money may be expended for development, we set up a monopoly that can only be repurchased and condemned at prohibitive prices." He advocates the establishment of a State Power Authority, municipal in character, having no stockholders, to prepare a plan for the comprehensive development of all the power resources, and with authority to issue bonds exempt from state taxation and secured by the revenues to be derived from the improvements, thus capitalizing the valuable franchises which the state would continue to own, not in the interest of private stockholders, but in the interest of the public. The Pennsylvania legislators were presented with a plan for the creation of a Giant Power Board, with the function of approving the location of electric generating plants, and perhaps of supervising the incorporation of giant power companies for the development of current in or near the coal fields. Better provision for the distribution of electric current, better regulation of rates, services, and security of hydro-electric power companies, and the drafting of compacts with other states for the control of the transmission of current and distributing agencies, were suggested.

Reclamation. A scathing criticism of present reclamation policy and practice was pronounced in Washington: "There has not been a single new reclamation project where the state has engineered and supervised and directed development which has not been a dismal failure." The division of reclamation has been buying the bonds of approved projects, but in selling them found that under a ruling of the state finance board they could not be accepted from banks as collateral to secure the deposit of state funds. The revolving fund "doesn't revolve, but dwindles," the present net worth being one and one-third million dollars short of its face worth. Governor Hartley also conducted a striking attack upon

the methods of the state boards in charge of the sale of state timber, especially because of their refusal to make public the quantity of timber in any tract or the amount later cut from it. His messages apparently stirred up a revolt in the legislature, and the governor found a pretty squabble on his hands. He told the legislators: "To the majority's ultimatum my answer is, go home. . . . The administration will stay on the job and continue to fight for the people and the taxpayers against the scheming and disgruntled politicians, the special privilege seekers, and the treasury raiders." He denounced "the trickery of a false leadership which sought to discredit the governor because he refused submissively to bow his head and let you swat it."

Miscellaneous Suggestions. A four-year term for governor and for state senators, with two years for assemblymen, is advised by Governor Smith, who would dispense with all legislation in even years except appropriations, unless specifically recommended by the governor. The Virginia governor laments his inability to be as much of an executive as he should be, coming into office as he does in the middle of a legislative term and possessing no direct control over the most important administrative officers of the state; and he urges provision by constitutional amendment for what is commonly called responsible state government. Governor Moore hints that a time limit should be set for the life of all laws that have been passed, and when that limit is reached the law should be automatically repealed, unless reenacted.

RALPH S. BOOTS.

University of Nebraska.

Election Legislation in 1924 and 1925.¹ As in other periods, the legislation of the forty-eight states on the subject of elections in the years 1924 and 1925 was voluminous. A very few states made no changes, but in all the others laws were passed ranging from minor changes to practically complete revisions. Of the latter the most notable

¹ No attempt is made to deal in this note with absent voting laws or laws affecting primary elections; these are covered in two succeeding notes. The legislatures of Kentucky, Louisiana, Maryland, Mississippi, and Virginia were in session in 1924 only; those of Georgia, Massachusetts, New Jersey, New York, Rhode Island, and South Carolina were in session in both 1924 and 1925; that of Alabama was in special session in 1923. In the remaining states the legislatures met only in 1925. No changes of any great significance are recorded in the following states: Arizona, Arkansas, Colorado, Connecticut, Florida, Illinois, Indiana, Kansas, Louisiana, Montana, Nevada, New Mexico, North Carolina, Oregon, Tennessee, and Texas. Session laws of the states of Massachusetts, South Carolina (1924), Virginia, and

is the one enacted in Michigan,² a large portion of which is devoted to a revision of the primary laws. Iowa, Minnesota, Missouri, and New Jersey also made numerous changes. As usual, registration and ballot provisions received the greatest attention, though the "short ballot" and the use of voting machines gained favor.

Voting Qualifications. There were very few changes in voting qualifications during the two-year period. Missouri³ has stricken from her laws the provision which disqualified "an officer, soldier or marine in the regular army or navy of the United States," at the same time disqualifying idiots and insane. Wyoming⁴ now permits the husband or wife of an owner of real estate, as well as the owner, to vote in bond elections. In Mississippi⁵ every naturalized citizen must file a certified copy of the final order of naturalization in the county of his residence, four months before an election, before registering or offering to vote there.

Short Ballot. The most significant event in the short ballot movement is the adoption by the voters of New York in the election of 1925 of an amendment⁶ to the state's constitution which reduces the number of elective state offices. Those now remaining are the governor, lieutenant-governor, state controller, and attorney general, and proposals are being made to extend the terms of office of these. The New Jersey legislature of 1925 also passed an amendment⁷ to the state constitution increasing the term of office of governor and senators from three years to four and of assemblymen from one year to two. This proposal must be approved by the next legislature and voted by the people before it becomes effective. On the other hand, the voters of Ohio defeated an

Washington were not available when this article was sent to the printer. In the preparation of these notes the author has had the assistance of Professors Morris B. Lamtie, of the University of Minnesota, and P. O. Ray, of Northwestern University, Mrs. Lucile McCarthy, of Madison, Wisconsin, Hon. Frank L. Stephan, of Twin Falls, Idaho, Mr. James Deering, of the San Francisco Law Library, and Messrs. Victor Hunt Harding, Gilford G. Rowland, and Hugo Wall, research assistants in Stanford University.

² *Public Acts of Michigan*, 1925, No. 351, pp. 528-645.

³ *Laws of Missouri*, 1925, Constitutional Amendment No. 8, p. 410.

⁴ *Session Laws of Wyoming*, 1925, Ch. 36, p. 25.

⁵ *Laws of Mississippi*, 1924, Ch. 154, p. 207.

⁶ *Laws of New York*, 1925, appendix, p. 1147.

⁷ New Jersey State Library, Legislative Reference Department, *Descriptive List of Laws and Joint Resolutions Enacted by the State of New Jersey Legislative Session, 1925*, p. 19.

amendment increasing the terms of elective state and county officers from two years to four.⁸

Non-partisan Elections. No notable extension of the non-partisan idea appeared in the last two years. Minnesota⁹ made provisions for challengers for non-partisan candidates as well as for partisans. Kentucky¹⁰ repealed the very badly drawn statute passed in 1922 which attempted to establish non-partisan elections in some municipalities. In California many cities have provided that when a candidate for a non-partisan office has received a majority of the votes at a primary election he is declared elected without being compelled to go through the subsequent general election. A proposed constitutional amendment¹¹ would make the same provisions for candidates for any non-partisan office, such as a judge or a school or county officer.

Registration. Some changes in registration laws are made necessary by the woman suffrage amendment to the United States Constitution. For example, Maine¹² requires a married woman to be registered under her "given and married surname," and that whenever a woman already registered legally "assumes" a new surname, she must notify the registration board of the change in order to be re-registered. Under the same circumstances, i.e., change of surname on account of marriage or divorce, Minnesota¹³ also requires a woman to re-register before being allowed to vote. An interesting result of woman suffrage is the change in the laws requiring statement of age by a voter. Heretofore an elector has generally been obliged as a condition of registration to declare his age or state his birth date. Now Maryland,¹⁴ following several other states, allows a woman to register upon stating that she is over twenty-one years of age; New York¹⁵ allows the same privilege to any voter; while Delaware¹⁶ allows it unless the voter is challenged, or unless he is under twenty-one at the date of registration.

An interesting development is registration *in absentia*. Minnesota,

⁸ *Laws of Ohio*, 1925, p. 549; *New York Times*, Nov. 4, 1925, p. 4.

⁹ *Session Laws of Minnesota*, 1925, Ch. 420, p. 699.

¹⁰ *Acts of Kentucky*, 1924, Ch. 66, p. 158.

¹¹ *Statutes of California*, 1925: Concurrent and Joint Resolutions and Constitutional Amendments, Ch. 69, p. 1401.

¹² *Laws of Maine*, 1925, Ch. 145, p. 129.

¹³ *Session Laws of Minnesota*, 1925, Ch. 390, p. 526.

¹⁴ *Laws of Maryland*, 1924, Ch. 299, p. 863.

¹⁵ *Laws of New York*, 1925, Ch. 159, pp. 194, 195.

¹⁶ *Laws of Delaware*, 1925, Ch. 106, p. 219.

which heretofore specifically prohibited registration by mail, now¹⁷ permits application for registration in writing by a voter absent from his election district up to fifteen days preceding an election. Missouri¹⁸ and Utah¹⁹ do not go quite so far; they provide supplementary days or periods of registration for the benefit of those unable to register on the regular registration days, the latter state limiting the privilege to cities of 20,000 or over and to absent voters, while Missouri extends the privilege to those unable to register on account of illness. Some minor changes in several states²⁰ further protect the registration of persons who move from one voting jurisdiction to another after the close of the registers.

Substitution of permanent for annual registration grows in favor. Idaho²¹ provides that an elector once duly registered in a voting precinct need not re-register so long as he remains a resident of that precinct. However, an amendment to the law regarding commission government in the same state²² authorizes the commission in its discretion to provide for a new registration of voters not oftener than once in four years. In Minnesota²³ the permanent registration provisions are now extended to cities of the second and third classes, which means that the law passed in 1923 now applies to all cities of more than 10,000 inhabitants. Delaware²⁴ adopted the constitutional amendment proposed in 1923 directing the legislature to enact uniform laws for registration. In accordance with this, changes were made in the statutes so that now general registration is required in each year in which a general election is held. But no person whose name is on the register is to be required to register again unless he ceases to be a resident of the election district or to possess the qualifications of a voter, or he has his name stricken from the register, or a new general registration is held to replace registration books lost, destroyed, mutilated, or defaced.²⁵ Any person who fails to vote will have his name stricken from the register.²⁶

¹⁷ *Session Laws of Minnesota*, 1925, Ch. 278, p. 347.

¹⁸ *Laws of Missouri*, 1925, S. B. 59, pp. 209, 210.

¹⁹ *Laws of Utah*, 1925, Ch. 76, pp. 149, 150.

²⁰ *Session Laws of Minnesota*, 1925, Ch. 390, p. 528; *New Hampshire Laws*, 1925, Ch. 51, pp. 43, 44; *Laws of Vermont*, 1925, pub. no. 2, p. 4.

²¹ *Session Laws of Idaho*, 1925, Ch. 96, p. 140.

²² *Ibid.*, 1925, Ch. 186, p. 304.

²³ *Session Laws of Minnesota*, 1925, Ch. 375, p. 477.

²⁴ *Laws of Delaware*, 1925, pp. 3-5.

²⁵ *Ibid.*, Ch. 106, pp. 222 and 230.

²⁶ *Ibid.*, Ch. 106, p. 215.

The only other interesting developments in regard to registration include the combining of the registration with the primary election in Wyoming²⁷; the provision by Minnesota²⁸ that the person in charge of death records in a city shall report periodically to the commissioner of registration the names of persons over twenty-one years of age who have died; and the requirement by Missouri²⁹ that election commissioners shall furnish in each precinct, in addition to lists of registered voters, supplementary lists of names of persons transferred or erased. Persons interested in voting statistics will hail with delight the new law in Pennsylvania³⁰ requiring a summary tabulation of registered voters by sex, color, party, and place of birth, to be prepared by registration officers. Maryland³¹ now requires biennial instead of annual correction of the general registration lists. A great many other changes in registration laws related to such technical details as the form of the register, the place and time of registration and so on, are designed chiefly to make statutes conform to some general change or to correct textual defects.

Ballots and Voting Machines. The candidacy of Robert M. LaFollette for president of the United States seems to have had an effect on the arrangement of the ballot in at least two states. Wisconsin³² now provides that the voter shall indicate his choice for presidential electors, not by marking crosses against the names of candidates for electors, but by marking opposite the name of the presidential candidate for whom he wishes the electoral vote of the state cast. South Dakota³³ provides that the groups of names of candidates for presidential electors on the ballot shall be preceded by the surnames of the respective candidates for president and vice-president, and also that a candidate may have his name printed on the ballot under the "principle" for which he stands instead of under a party designation. In a statute passed over the governor's veto, Utah³⁴ prohibits the placing on the official ballot of more than one group of candidates by any one committee or convention or association of voters acting independently. Also, no candidate's name is to appear more than once on the ballot, and all joint

²⁷ *Session Laws of Wyoming*, 1925, Ch. 27, pp. 19, 20.

²⁸ *Session Laws of Minnesota*, 1925, Ch. 390, p. 529.

²⁹ *Laws of Missouri*, 1925, S. B. 59, pp. 207, 208.

³⁰ *Laws of Pennsylvania*, 1925, No. 355, pp. 663, 664.

³¹ *Laws of Maryland*, 1924, Ch. 474, pp. 1155-1158.

³² *Laws of Wisconsin*, 1925, Ch. 250.

³³ *Session Laws of South Dakota*, 1925, Ch. 160, pp. 172, 173.

³⁴ *Laws of Utah*, 1925, Ch. 48, pp. 108, 109.

party groupings must appear on the ballot as a single ticket. The office of vice-president of the United States is increasing in importance: the names of candidates for that office are to appear on the official ballot in Minnesota along with those of the candidates for president!³⁵

Wisconsin³⁶ adopts a sensible provision regarding "writing in" names on the official ballot. Formerly the voter not only wrote down the name of his candidate but also marked a cross opposite the name; now he merely writes the name. Idaho³⁷ provides a simpler form of ballot for bond elections. Formerly confusion resulted from asking the voter to strike out "Yes" if he intended to vote "No" and *vice versa*; now he merely marks a cross opposite the proposal for which he wishes to vote. South Dakota³⁸ provides separate ballots for candidates for judicial offices. Nebraska³⁹ does the same for all non-partisan offices and also requires referendum measures to be submitted on separate ballots. Nebraska makes some interesting changes regarding referendum votes on constitutional amendments. It is now required that thirty-five per cent of those voting on an amendment, as well as a majority of those voting in the election, must be in favor of an amendment to secure its passage.⁴⁰ At the same time, the voter is deprived of the opportunity of voting for constitutional amendments by voting a straight party ticket.⁴¹

The use of sample ballots for educational purposes is fostered by Vermont,⁴² which directs the secretary of state to furnish sample ballots as required to high schools and educational institutions, and by South Dakota⁴³ which requires the county auditor to supply upon request not only sample ballots but also "cards of instruction" to all pupils in the public schools in the seventh to the twelfth grades.

Iowa⁴⁴ and New York⁴⁵ have corrected their voting machine laws, and New York⁴⁶ has abolished its voting machine commission. It is now the duty of the secretary of state to examine voting machines before

³⁵ *Session Laws of Minnesota*, 1925, Ch. 41, p. 40.

³⁶ *Laws of Wisconsin*, 1925, Ch. 162, p. 235.

³⁷ *Session Laws of Idaho*, 1925, Ch. 8, p. 11.

³⁸ *Session Laws of South Dakota*, 1925, Ch. 161, p. 178.

³⁹ *Session Laws of Nebraska*, 1925, Ch. 116, pp. 309-311.

⁴⁰ *Ibid.*, Ch. 113, pp. 305, 306.

⁴¹ *Ibid.*, Ch. 115, pp. 307, 308.

⁴² *Laws of Vermont*, 1925, Public No. 7, pp. 9, 10.

⁴³ *Session Laws of South Dakota*, 1925, Ch. 149, p. 131.

⁴⁴ *Acts of Iowa*, 1925, Ch. 25, p. 26.

⁴⁵ *Laws of New York*, 1924, Ch. 443, pp. 820, 821.

⁴⁶ *Ibid.*, Ch. 442, pp. 818-820.

their adoption. Michigan⁴⁷ adopted a detailed statute authorizing counties, cities, and villages to purchase and use "any thoroughly tested or reliable voting machine." The act includes provisions regarding construction and arrangement of such machines, their purchase, custody, inspection, and use.

Conduct of Elections. Most of the statutes dealing with election procedure are of minor importance; some are interesting and a few are significant. West Virginia,⁴⁸ which formerly provided for the opening and closing of the polls at sunrise and sunset, now fixes the times respectively at 6:30 A.M. and 6:30 P.M. Persons who cannot read English are going to find it increasingly difficult to vote. Minnesota,⁴⁹ in amending the law relating to printed instructions for voters, omitted the provision authorizing publication in a foreign language. Michigan,⁵⁰ in its revision, omitted the provision that assistance to voters in marking ballots might be based on inability to read English. However, in another direction there is a tendency to increased liberality in the matter of assisting voters; North Dakota⁵¹ which formerly allowed only near relatives to perform this service; now permits election judges, while Ohio,⁵² which formerly limited the exercise of this function to election judges, now permits it to near relatives.

Maine⁵³ authorizes cities and towns to equip ballot boxes with mechanical devices for receiving, registering, and endorsing every ballot deposited. A new law in Utah⁵⁴ authorizes, in any election precinct in which more than 200 votes were cast for governor in the last general election, the counting of ballots during the polling. Two sets of election officials and two ballot boxes are to be provided, and as soon as twenty ballots have been cast, one set of officers takes the box containing them to another room and counts them, continuing the counting of ballots and exchanging of ballot boxes until the election is over. Minnesota⁵⁵ now requires the filing by election judges of two summary statements (instead of one) of election results, one with the auditor and one with the local clerk.

⁴⁷ *Public Acts of Michigan*, 1925, No. 351, pp. 618-630.

⁴⁸ *Acts of West Virginia*, 1925, Ch. 85, p. 294.

⁴⁹ *Session Laws of Minnesota*, 1925, Ch. 420, p. 690.

⁵⁰ *Public Acts of Michigan*, 1925, No. 351, p. 596.

⁵¹ *Laws of North Dakota*, 1925, Ch. 132, pp. 155-156.

⁵² *Laws of Ohio*, 1925, S. B. No. 8, p. 275.

⁵³ *Laws of Maine*, 1925, Ch. 13, pp. 114, 115.

⁵⁴ *Laws of Utah*, 1925, Ch. 34, pp. 73-76.

⁵⁵ *Session Laws of Minnesota*, Ch. 126, p. 115.

Corrupt Practices and the Use of Money in Elections. In this field there is very little development. South Carolina⁵⁶ makes "impersonation" unlawful, and South Dakota, which formerly made it a felony wilfully to break or destroy a "ballot box or poll list," now includes stealing or concealing these important adjuncts of elections in the list of felonies.⁵⁷

Idaho⁵⁸ has repealed its statute which provided for the payment of actual railroad fare for delegates to state party conventions. The last total annual appropriation for this purpose was \$7500.⁵⁹

Wisconsin⁶⁰ repealed the provision in its corrupt practices law which required a candidate to file as a public record any written statement or pledge regarding legislation. On account of this provision, many candidates have refused to answer questions as to their attitude on public questions put to them by civic organizations.

Miscellaneous. A large number of changes are of minor importance and are concerned with such things as the conduct of school elections (New Jersey, New York, South Carolina); appointment and tenure of election officers (Maryland, Minnesota, Wisconsin); establishing and fixing boundaries of election precincts (Alabama, Minnesota, Missouri, Rhode Island, South Carolina); consolidation of voting precincts where there is only one candidate (California, South Dakota); arrangement of names on ballots (New York, North Dakota, South Dakota, Vermont); number of ballots (Maryland); emergency ballots (New Hampshire); sample ballots (Maryland, Minnesota); publication of names of candidates (Maryland); time of opening and closing polls (Georgia, North Dakota, Rhode Island, Wisconsin); challengers and challenging (Delaware, Kentucky); counting, canvassing, and certifying returns (California, Minnesota, North Dakota, Pennsylvania); preservation and destruction of ballots (New York, Wisconsin); and procedure in contested election cases (New York, North Dakota, Oklahoma, South Carolina).

VICTOR J. WEST.

Stanford University.

⁵⁶ *Acts of South Carolina*, 1923, No. 12, p. 30, 31.

⁵⁷ *Session Laws of South Dakota*, Ch. 179, p. 159.

⁵⁸ *Session Laws of Idaho*, 1925, Ch. 5, p. 8.

⁵⁹ *Session Laws of Idaho*, 1919, Ch. 107, p. 390.

⁶⁰ *Laws of Wisconsin*, 1925, Ch. 343, p. 460.

Absent-voting Legislation, 1924-1925. With the enactment of laws in Georgia¹ and South Carolina² in 1924, only three states are now without absent-voting legislation, namely, Rhode Island, Connecticut, and Kentucky.³ The acts of Georgia and South Carolina conform in general to the North Dakota type of absent-voting laws, but South Carolina, unlike Georgia, restricts absent-voting to primaries. The Georgia statute, on the other hand, is the more generous in that it extends the privilege of voting *in absentia* to persons detained from the polls by illness. The laws of several other states have recently been amended so as to permit absent-voting on account of illness or other physical disability.⁴ In New Hampshire, however, this privilege appears to be confined to voting for presidential electors only. The number of states which now grant absent-voting privileges to sick or disabled voters is thus brought up to eleven.⁵

Amendments to the New York absent-voting law extend the privilege to inmates of soldiers' and sailors' homes,⁶ to students attending institutions of learning outside their own county, and to wives of male citizens entitled to vote *in absentia* who may be accompanying their husbands.⁷ This last provision is rarely found in absent-voting legislation.

The Minnesota Act of 1917 was amended to permit absent-voting in "special primary elections and special elections."⁸ Applications for absent-voters' ballots in first-class cities under home-rule charters in that state must henceforth be made to the city clerk, instead of to the county auditor as formerly.⁹ Absent-voters residing in those cities are now also permitted to register by mail.¹⁰

The Hawaii act of 1923 was amended to extend the privilege of voting before an election to voters employed upon vessels that are leaving port; and the privilege may be exercised in connection with

¹ *Georgia Laws*, 1924, No. 517.

² *Acts of the General Assembly of South Carolina*, 1924, No. 540.

³ An absent-voting law was enacted in Kentucky in 1918, but was held unconstitutional by the state supreme court in 1921.

⁴ Arizona, New Hampshire, South Dakota, and Vermont. *Laws of Arizona*, 1925, Ch. 75; *New Hampshire Laws*, 1925, Ch. 20; *Session Laws of South Dakota*, 1925, Ch. 159; *Laws of Vermont*, 1925, No. 5.

⁵ Arizona, Delaware, Georgia, Idaho, Indiana, Iowa, Nevada, New Hampshire, South Dakota, Wisconsin, and Vermont.

⁶ *New York Laws*, 1924, Ch. 446.

⁷ *New York Laws*, 1925, Ch. 509.

⁸ *Minnesota Session Laws*, 1925, Ch. 289.

⁹ *Minnesota Session Laws*, 1925, Ch. 388.

¹⁰ *Ibid.*, Ch. 278.

primaries and both general and special elections—not merely in city and county elections as previously.¹¹

Two recent state court decisions have invalidated absent-voting laws. The Kentucky supreme court had no difficulty in holding that the law adopted in 1918 was inconsistent with section 147 of the state constitution, which declares that "all elections by the people shall be by secret official ballot, furnished by public authorities to the voters at the polls, and marked by each voter in private at the polls, and then and there deposited."¹² The Pennsylvania supreme court, on the other hand, found it a much less easy task to establish the unconstitutionality of the civilian absent-voting law of 1923. That result was reached, however, by narrowly interpreting a clause requiring a voter to reside in the election district "where he shall offer to vote." According to this court, an "offer to vote" can only be made in person. The court found an additional basis for its conclusion in the fact that the state constitution definitely authorizes absent-voting for persons in the military service of the United States; from this the court argued that *inclusio unius est exclusio alterius.*¹³

The voters of California will be given an opportunity at the general election in 1926 to pass upon a proposed constitutional amendment, submitted by the legislature, considerably expanding the scope of the absent-voting amendment adopted in 1922. The latter conferred the privilege of absent-voting upon two classes: (1) those "who, by reason of their occupations, are required to travel," and (2) those "engaged in the military and naval service of the United States." The pending amendment adds a third class, i.e.; those "who because of injury or disability are absent from their precincts or unable to go to the polling places." It also enlarges the second group mentioned above by adding thereto those "engaged in the civil and congressional" service of the United States. And lastly, the proposed amendment more carefully defines the first group specified above to include those "who, by reason of their occupation, are regularly required to travel about the state." Provision is also made that the affidavit to be signed by voters in this class, when applying for an absent-voter's ballot, need not show that

¹¹ *Session Laws of Hawaii*, 1925, Act 273. Unimportant amendments to absent-voting statutes were adopted in Nevada and Virginia. *Laws of Nevada*, 1925, Ch. 36; *Virginia Acts of Assembly*, 1924, Ch. 420.

¹² *Clark v. Nash*, *Lyon v. Nash*, 192 Ky. 594 (1921).

¹³ *Lancaster City's Fifth Ward Election*, 281 Pa. St. Rep., 131-138 (1925).

they "will be absent" from their precinct on election day, but merely "that they expect to be absent."¹⁴

P. ORMAN RAY.

Northwestern University.

Primary Legislation, 1924-1925. The legislative output of the past two years has not been distinguished by any important extensions of the direct primary; nor, on the other hand, has there been any noteworthy abandonment or curtailment of the system. In a few states it came in for more or less honorable mention in governor's messages. In New Mexico, for example, Governor Hannett recommended the adoption of the direct primary for that state; and Governor Smith, in 1924 and again in 1925, recommended the restoration of the state-wide primary in New York.

In Ohio, Governor Donahey recommended the relaxation of the tests of party allegiance so as to permit independent voters to participate in the nomination of candidates. Governor Morley, of Colorado, on the other hand, urged the adoption of a strict party enrollment system in his state. Governor McRae, of Arkansas, advised that provision be made for run-off primaries for state officers in cases where no candidate receives a majority. Governor Branch urged the Indiana legislature to make the present primary law optional for local offices and mandatory for the selection of delegates to state conventions which were to nominate candidates for state offices, except for governor. None of these gubernatorial recommendations, however, bore fruit in legislation.

In Illinois a law was passed providing for the nomination of candidates for the circuit court and the superior court of Cook county by direct primary instead of by conventions. This, however, was done, not in response to any noticeable popular demand, but apparently to further the interests of certain Republican factions. A considerable amount of patronage attaches, directly or indirectly, to these courts. The judges of the circuit court, for example, appoint the South Park commissioners, who are in charge of important lake-front improvements in Chicago involving the expenditure of many millions of dollars. The new law providing for the direct nomination of the judges of these two courts also requires the rotation of candidates' names by precincts formed into a number of "groups" equal to the number of candidates. Another

¹⁴ *Statutes of California, 1925: Concurrent and Joint Resolutions and Constitutional Amendments, Ch. 56, p. 138.*

amendment to the primary law extends this rotation system to the candidates for the municipal court in Chicago.¹

A New Jersey amendment moves forward the date of the general state primary from the fourth Tuesday in September to the third Tuesday of June, except in presidential years, when the primary is to be held on the third Tuesday in May.²

A concession to municipal home rule appears in the Missouri law giving cities operating under home-rule charters the right to prescribe by charter enactment the mode of nominating municipal officers and the form of ballot to be used in municipal elections.³ In Louisiana the direct primary has been made optional in cities, towns, and villages of less than 5,000 population.⁴

A touch of "local color" has been imparted to primary elections in South Carolina by the recent requirement that ballots for state candidates shall be printed on yellow paper and deposited in yellow ballot-boxes; and that all ballots for county officers shall be on white paper, with ballot-boxes painted to match.⁵

The California legislature voted to submit a proposed amendment to the state constitution providing that any candidate for a *non-partisan* office who receives a *majority* of all the votes cast in a primary election shall be declared *elected*.⁶

But the most interesting and important primary legislation of the past year appeared in the Oklahoma preferential primary law,⁷ which contains two provisions differentiating it sharply from the usual type of preferential-voting system. In the first place, the voters are *required* to indicate their preferences. Thus, if there are three or four candidates, the voter must indicate his first and second choices by a cross in the

¹ *Laws of Illinois*, 1925, pp. 373-377.

² *Laws of New Jersey*, 1925, Ch. 8.

³ *Laws of Missouri*, 1925, p. 301.

⁴ *Laws of Louisiana*, 1924, Act. No. 155.

⁵ *Acts of the General Assembly*, 1923, No. 32. Probably the most "colorful" ballot system is to be found in Minnesota: (1) white ballots for candidates to be voted for by the state at large; (2) pink ballots for constitutional amendments and other state-wide propositions; (3) red ballots for city offices; (4) lavender ballots for city-charter and bond referenda; and (5) blue ballots for any candidates or propositions not provided for above. Separate ballot boxes to match are provided for each kind of ballot. *Minnesota General Statutes* (1923), §§276-280.

⁶ *Statutes of California*, 1925: Concurrent and Joint Resolutions and Constitutional Amendments, Ch. 69, p. 1401.

⁷ *Oklahoma Session Laws*, 1925, Ch. 29, p. 36.

appropriate column. If there are more than four candidates for a single office, first, second, and third choices must be indicated. And when more than one candidate is to be nominated to any one office, the voter "must vote for as many candidates on each choice as there are candidates to be nominated for that office." Here, then, appears to be something new under the sun—compulsory preferential voting for all who take the trouble to come out to the primary—or the alternative, a void ballot! Perhaps the first state compulsory-voting law for stay-at-homers may be in the offing.

The other distinguishing feature of the Oklahoma law relates to the method of counting the ballots. Under the usual preferential system, the same weight is given to second and third choice votes as to first choices, whenever they are combined. Oklahoma seems to have improved upon this by providing that second and third choice votes shall count only one half and one third, respectively, in combination with first choices. Thus, when there are three or four candidates and no one receives a majority of first choice votes, only one half of the number of second choice votes for each candidate are added to his first choices, and the one receiving the *largest* vote is declared the nominee. Similarly, when there are five or more candidates for nomination to the same office and no one receives a majority of first choices, one half the number of second choice votes are added and the candidate then receiving the highest vote is declared the nominee, provided the total of the votes thus combined is equal to, or greater than, a majority of all first-choice votes. In case this total is less than such majority, one third of the number of third choice votes are added in, and the candidate then receiving the largest vote is declared the nominee.⁸

The election of party committees is commonly provided for in primary laws. To membership on such committees amendments to the primary laws in Iowa⁹ and New Jersey¹⁰ now require the election of both men and women, and in equal numbers.

A thorough overhauling of the entire election code in Michigan,¹¹ and of all direct primary legislation in Iowa,¹² has taken place in the

⁸ For the circumstances which led to the adoption of this form of primary, see H. A. Barth, "Oklahoma Adopts Preferential Voting in the Primary," *Nat. Mun. Rev.*, XIV, 410-413 (July, 1925).

⁹ *Acts of the Extra Session of the 40th General Assembly of Iowa*, 1924, Ch. 5.

¹⁰ *Laws of New Jersey*, 1925, Ch. 8.

¹¹ *Michigan Public Acts*, 1925, No. 351.

¹² *Acts of the 41st General Assembly of Iowa*, 1925, Ch. 27.

past two years. These revisions have eliminated inconsistent provisions, simplified and clarified involved and ambiguous sections, and introduced a few substantive changes, though these are of only minor importance. Relatively insignificant amendments to primary laws have also been adopted in Louisiana,¹³ Nebraska,¹⁴ North Dakota,¹⁵ Virginia,¹⁶ and Wisconsin.¹⁷

Boston's recent reversion to the ward plan of electing municipal councilmen necessitated some readjustment in the system of nomination by petition which has been in operation since 1909. Three thousand and two thousand signatures continue to be required on the petitions of candidates for mayor and the school committee, respectively, but for candidates for the council the number of required signatures has been reduced to 300.¹⁸

P. ORMAN RAY.

Northwestern University.

State Control of Local Finance in Indiana. *Control by the State Tax Commission.* The state of Indiana derives its tax income chiefly from the general property tax. In the year 1923-24, fifty-six per cent of the total revenues of all taxing units, state and local, was derived from taxes on property. Another fifteen per cent was derived from local bond issues which will at their maturity be met chiefly from the property tax.

During the two decades prior to 1919 the tax situation in Indiana was not different from that in other states which depend upon the general property tax as the main source of tax revenue. The assessment of property for taxation is, with the exception of that upon certain special classes of property, in the hands of elected township and county assessors, with imperfect control by the state tax commission. The assessed valuation of property in the state had, in 1918, increased but sixty-four per cent compared with 1900. This was known to be, subsequent events corroborating, far below the true increase in value. Total

¹³ *Laws of Louisiana*, 1924, Act No. 215.

¹⁴ *Nebraska Session Laws*, 1925, Chs. 108, 111, 114.

¹⁵ *Laws of North Dakota*, 1925, Ch. 136.

¹⁶ *Virginia Acts of Assembly*, 1924, Chs. 286, 423.

¹⁷ *Laws of Wisconsin*, 1925, Ch. 448.

¹⁸ *Acts and Resolves of Massachusetts*, 1924, Ch. 479. Assistance in the preparation of the two foregoing notes has been received from Professors F. E. Horack, University of Iowa, J. K. Pollock, Jr., University of Michigan, A. B. Hall, University of Wisconsin, and V. J. West, Stanford University.

taxes for the state and local purposes had been steadily advancing, having increased during the same period 247 per cent. It is interesting to note that this total increase represented an increase of 171 per cent in state, and 256 per cent in local, taxes. There was during this period no state limitation upon the power of local taxation.

In 1919 the legislature enacted a revised tax law which was intended, among other things, to improve methods of assessment, and to institute state control over local taxation and borrowing. Anticipating that the new law would greatly increase the valuation of property, but being quite unable to estimate the amount of the increase, the legislature conferred upon the state tax commission certain new powers in the premises:

First, in lieu of specific levies for each state fund, as was the custom hitherto, to fix the levy, for the years 1919 and 1920 only, at such point as should prove necessary to meet certain appropriations;

Second, to increase the levy of any municipality upon petition of the locality showing that "a necessity exists for such increase, and that the revenues otherwise obtained are not sufficient to meet the requirements of the municipal corporation"; and,

Third, to reduce after hearing, either of its own initiative or on petition of taxpayers affected, the levy of any municipality "whenever it shall appear that more revenue is about to be raised than the requirements of government, economically administered, warrant, . . . but only upon sufficient evidence, upon hearing, showing that such reduction is warranted."

The constitution of Indiana prohibits the incurring of indebtedness by any municipal corporation in excess of two per cent of its assessed valuation. There is no constitutional or statutory limit on tax rates. Since a great number of municipal corporations had already borrowed almost, or quite, to the constitutional limit, and since the new law would probably greatly increase valuations and hence borrowing capacity, it was feared that an orgy of borrowing might follow. So, it was further provided:

Fourth, that no municipal corporation should thereafter issue any bonds or other evidences of indebtedness without the approval of the state tax commission. Petition was to be made by the municipality, and, after public hearing at which any citizen might be heard, the commission was empowered, "if it appeared that a necessity exists," to approve the issue as proposed or with such modifications or conditions "as may be deemed just and proper"; or to refuse its approval altogether.

But if the amount of the bond issue proposed was in excess of \$50,000, then appeal might be made to the people of the taxing unit. If the proposed issue was an amount less than \$50,000, the decision of the state tax commission was final.

The anticipations of the legislature were realized. Property valuations were increased by the first assessment from \$2,223,761,065 the previous year to \$5,749,258,800, or an increase of 157 per cent. Taxes for all purposes in the state increased from \$68,367,035 the year before under the old law to \$75,602,477 for the first year under the new law. The tax commission reduced local levies that year to the extent of \$11,617,037, or fourteen per cent of the total local levies proposed. Proposed bond issues likewise increased; and of \$67,762,952 proposed, the commission disapproved thirteen per cent.

These acts of the tax commission raised a storm of protest from those who saw in the new law an invasion of local self-government, or a check upon desired local improvements. Among the group of objectors were those patriots who desired to purchase or to handle tax-exempt bonds, or who were especially aware that local improvements mean numerous public contracts.

Although this grant of authority over bond issues was sustained by the supreme court of Indiana (*Van Hess v. The Board*, 190 Ind. 347) as a proper delegation of power, the legislature, in special session in 1920, heeded the popular demand and took from the state tax commission all control over both local levies and bond issues. Attempting still to exercise some restraint upon borrowing propensities of local communities without offending home rule sentiment, it was now provided that appeals by citizens against a local tax levy, seeking either to raise or to lower it, or against a local bond issue, were to lie to the county council, the financial authority of the county. The council, while having no initiative in the matter, might on appeal of taxpayers either raise or lower the levy, or approve or disapprove the bond issues.

The results of this change at once demonstrated the inability of a local body such as the county council to offer effective resistance to local influences urging added taxes and borrowings. In 1920, when the local levies were thus fixed by local authority without state control, the total levies increased from \$64,821,697 to \$99,311,883, a rise of 53 per cent. Two factors which account for some of this increase should, however, be kept in mind: first, the increased cost of all purchasable commodities, including labor, was making great demands upon budgets, and hence upon tax-levying bodies; second, capital outlays which had

been delayed during the war were now seeking to overtake the needs of local communities.

The results of the modification of the law were so obvious as to convince all but the most extreme champions of local self-government, and there was a general demand for a reversal of policy. The decline in agricultural values, which had already set in, intensified this demand for the restoration of some measure of state control. The general assembly of 1921, therefore, again revised the tax law with respect to local levies and bond issues. The statute as amended at that session, and as still in effect, provides that when a levy has been fixed by the local tax-levying authority, the matter may, upon petition of ten taxpayers, be appealed to the state tax commission. The commission may, after a hearing held in the county where the taxing unit affected is located, affirm or decrease any local levy or any item therein; and the decision of the commission is final. In the same manner, if the local authority decides to issue bonds in an amount in excess of \$5,000, the tax commission is empowered, after hearing, to approve, modify, or reject the proposed issue. Here, too, the decision of the tax commission is final.

Under the law of 1921 the tax commission has acted upon tax levies as follows:

	Levies reviewed	Levies reduced	Total reduction
1921	42	39	\$1,254,448
1922	74	46	1,034,572
1923	37	25	1,874,070
1924	48	41	1,487,345
1925	113	65	1,554,004

The total number of taxing units in the state is somewhat in excess of two thousand.

From the taking effect of the act of 1921 to October 20, 1925, of \$45,006,205 of proposed bond issues brought before the commission on appeal, \$26,754,743 were approved and \$18,251,462 disapproved. Both the power to reduce levies and the power to review bond issues has been sustained by the state supreme court.

Typical examples give concrete indication of the situations to which the control of tax levies has been applied and its effect in those instances. In a certain county in 1923 it appeared from the published budget that county officials were proposing to increase the previous tax levy four cents on the hundred dollars. Citizens protested to the county council at a public hearing, but were ignored. Appeal to the state tax commission

revealed that the county had on January 1, 1923, in its general fund \$192,000 and was proposing a budget of but \$80,000. As a result of the hearing, the whole county levy was wiped out.

The following year the same county council fixed the county levy at four cents on the hundred dollars. On appeal it was shown that there was on January 1, 1924, a balance in the general fund of \$172,585, with a budget of only \$77,950. By adding receipts other than taxes, it was shown that on January 1, 1926, there would be a balance in the general fund of from \$40,000 to \$50,000. Again the total levy was wiped out. It must be remembered that in Indiana counties about thirty per cent of the income is derived from sources other than taxation.

In one instance the officials of a certain tax unit had estimated the receipts other than taxes at \$7,000. Upon being required to produce records at a hearing, it transpired that the figure actually was about \$33,000. A reduction in tax levy was ordered which decreased taxes for the year \$28,000. That the commission is fully justified in insisting on precise itemization in the budgets is demonstrated by an instance where it was discovered that in a certain county a bridge had been built across a stream when there was no public highway.

A vivid picture of conditions and practices in connection with public improvements which state control of local bond issues has assisted in remedying is presented in the following illustrations. It was proposed by officials of a county to issue bonds to the amount of \$570,000 to cover the estimated cost of constructing a certain road. After appeal was taken, the contractor asked that the estimate be reduced \$131,000. The issue was disallowed. New bids were called for and a contract was signed to build the road for \$201,000 less than the first contract for the same job.

In one of the larger cities it was proposed to construct four miles of road. The specifications called for a certain type of concrete construction. It was shown that after the proposal was approved by the county commissioners, the brick interests took the commissioners, viewers, and city engineer on a trip to Kansas City. On their return the specifications were changed to provide for a brick construction at an increased cost of at least \$15,000 per mile. On appeal to the tax commission, the bond issue to meet the cost was disapproved. A second attempt to issue bonds was met by appeal and a second disapproval. Thereupon a third attempt was begun by the county commissioners. Three luncheon clubs and the chamber of commerce passed resolutions favoring the issue, and political pressure was exerted on the tax commission; but the bonds were dis-

approved a third time. The specifications were then restored to their original form and the contract let for \$65,000 less than the cost under the brick specifications.

The city of Indianapolis determined to issue bonds for \$1,650,000 to build eight school buildings. Upon appeal, and after hearing, it was found that there was a public necessity. A preliminary finding was entered that upon the adoption of proper plans and specifications and the securing of proper bids the bonds would be approved. With the assistance of the tax commission's own engineer, plans and specifications were prepared. Knowing that bids would be carefully scrutinized by the state authorities, contractors submitted bids which were \$456,000 less than the amount originally estimated and asked for.

Control by the Department of Inspection and Supervision of Public Offices. The state department of inspection and supervision of public offices, popularly known in the state as the "state board of accounts," exercises a considerable degree of control over local finance. The chief and original function of the department, which is headed by the state examiner, is to prescribe uniform systems of accounting and reporting for public offices, state and local; to audit accounts of all public offices; and to undertake the recovery of misappropriated funds.

The department has stated that its official acts have been based on the theory "that everything should be done which will aid public offices in preventing the waste of public funds and guarantee value received from each dollar of public money expended." In pursuance of this policy it has been the practice of the department to investigate the sales of furnaces, bridges, and other commodities to local authorities, the vending of teachers' contracts, malpractices in the construction and repair of roads, and the practice of charging different prices for the same article when sold to local officials under substantially identical conditions.

It has long been the practice of public officials, in cases of doubt, to apply to the department for its opinion, in advance, upon the validity of particular financial transactions or expenditures under contemplation by any department. The examiner has also been accustomed to indicate in advance on his own initiative, as well as upon request, certain expenditures which would not be passed by the examiners.

Prior to 1922, the department had further been accustomed, at its discretion, to have engineers make inspections of public improvements during their progress or after completion, and, if defective workmanship or a failure to comply with specifications was revealed, to refuse to

approve warrants issued in payment for such work. This practice of making inspections of improvements was continued until the appellate court, in 1922, in a suit brought by a township to recover damages from a contractor for failure to adhere to specifications in the construction of a highway, decided against it. (*State ex rel Licking Township v. Clamme*, 80 Ind. App. 147, 1922.) The work had been approved by local officials, but defects had been detected by engineers in the employ of the state examiner. The court, declaring that the department had no power to inspect a highway, nor to employ an engineer to do so, characterized the action of the department as "a plain case of usurpation."

The intrinsic worth to the public of this unauthorized service by the department of inspection and supervision was so apparent that there was a popular demand for its continuance. Accordingly, the general assembly, at the session of 1923, gave to the practice a specific statutory basis. It was enacted that, upon the petition of twenty-five taxpayers showing that local relief cannot be obtained, the state examiner may make such "inquiries, tests, examinations and investigations" as may be necessary to determine whether any public contract has been properly performed, and whether any public improvement has been made according to specifications. The examiner may, upon petition, cause all plans and specifications of such public improvements to be submitted to him for correction or approval before contracts are awarded.

If it is found that there has been fraud, collusion, misconduct, or negligence in the letting or execution of any contract, or any failure to comply with plans or specifications, causing loss or damage to the state or any municipal corporation, or any diversion or conversion of public funds, it is made the duty of the examiner to certify his findings to the attorney-general. It then becomes the duty of the attorney-general to bring criminal action, or to institute civil proceedings against the contractor or his bondsmen to secure proper recoveries.

Examples of the sort of practices which have been disclosed by these investigations include the use of insufficient quantities of cement and gravel; the presence of foreign substances in washed gravel; failure to construct catch basins properly; short weight and improper construction of bridges; defective ditch dredging; short yardage of gravel and stone in road construction; inferior work and materials on building contracts; and the padding of pay rolls. These situations have arisen from the ignorance or carelessness of officials, as well as from fraud and collusion on the part of officials, engineers, and contractors.

The experience of the department shows that in about forty per cent of the cases appealed the conditions disclosed upon investigation were of major importance, vitally affecting the work and demanding material and expensive corrections. About fifty per cent involved differences in interpreting the terms of the contract, extras or omissions improperly ordered, and minor changes. In practically all these cases the adjustment favors the municipality, and to an amount amply justifying investigation. In the remaining ten per cent of cases, the investigation was not justified by the conditions found. All reports of investigations are certified to the attorney general, but, so far as possible, adjustments are made through the examiner's office without court action.

Examples will serve to illustrate the character of the service which has developed. In a certain city a main sewer was built of concrete pipe at a contract price of \$350,000. It was partially in use before appeal was taken to the examiner's office. The pipe was found to be correct in quantity and quality, but installation was so unsatisfactory that the job was fifty per cent deficient and becoming worse. Suit was brought to enjoin the city from accepting the sewer, and plaintiff won in the lower court. The case is pending before the supreme court.

Examiners were called to examine a new street in a small city and the work was found deficient in quantity and quality of materials. Suit based on rejection by the examiners was brought and judgment given in favor of the abutting owners for \$22,000.

Commissioners of a county contracted for forty-two culverts and bridges, which had been accepted and paid for before appeal. The examiners found but two built in accordance with the plans and specifications. As a result of the investigation, there were recovered about \$60,000 in cash and reconstructions of about equal value. The commissioners were also forced to resign.

These measures of control by the tax commission and the state examiner, departing as they seem to do from prevailing doctrines of local self-government, have not failed to arouse protest, especially from those who have been prevented from realizing cherished plans. It is pointed out by some that the powers of the tax commission transcend the bounds of merely securing good administration and invade the policy-forming function of the local community. It is urged that public opinion operating upon local officers may be depended on to restrain unwise and wrong-doing in local finance. The proponents of the present system argue, however, that the latter assumption is predicated upon a condition of alertness and interest on the part of the public which does not, as a matter of fact, exist.

It is perhaps true that through this control some expenditures for meritorious objects have been curtailed and some desirable improvements postponed. But neither this circumstance nor a sentimental attachment for the principle of local self-government has been allowed to obscure the fact that large savings to the taxpayers have repeatedly resulted from the action of the tax commission. Experience has shown that unsupervised local finance has, in Indiana, resulted in high taxes, large debts, and a vast waste of money. In the last quarter of a century, taxes for local purposes in the state rose from \$19,000,000 to over \$100,000,000, and the total local indebtedness rose to the sum of \$176,000,000. When the citizen learns such facts, his faith in the universal validity of the principle of complete local self-government, and in the efficacy of local public opinion to curb local money-spending proclivities, is shaken. The public is inclined to look upon the system, not as an unwarranted invasion of local rights, since the state officers acquire jurisdiction only upon petition of local taxpayers, but as a means of protecting local minorities from exploitation.

FRANK G. BATES.

Indiana University.

NOTES ON MUNICIPAL AFFAIRS

EDITED BY THOMAS H. REED AND E. B. SCHULZ

University of Michigan

City Manager Progress. To January 1, 1926, a total of 357 cities adopted the city manager plan of government. Of this number, the plan has an ordinance basis in 84 instances and a charter basis in 259. The status of 14 is not definitely known. Distribution by states shows Michigan in the lead with 39 and California next with 34, followed by Florida with 30, Texas 26, Virginia 24, Oklahoma 19, Ohio 16, Pennsylvania 15, Kansas 14, Georgia 12, Iowa 11, and North Carolina 11. Each of the remaining states has less than 10 cities operating under the manager plan. In all, the plan has been adopted by one or more cities in thirty-five states. The total figure of 357 includes 19 Canadian cities and 2 in New Zealand.

Boulder, Colorado. An attack on the city manager charter of Boulder was successfully voted down at an election held on November 3. Although the fight dealt largely in personalities rather than with vital points of the charter, the Hare system of voting was one of the main points of the attack.

Rochester, New York. Last fall Rochester joined the ranks of the cities which have voted to give the city manager form of municipal government a trial. On election day, November 3, the new charter was voted upon by the electorate, 39,020 persons indicating their desire to adopt it and 25,903 voting in opposition. The voters expressing a preference one way or the other comprised seventy per cent of those who voted on that day for the mayor of the city. This is the highest vote ever recorded in Rochester on a proposition of this nature. The vote in 1921 to give veterans preference in civil service and the soldiers' bonus vote in 1920 brought out fifty-eight per cent and fifty-six per cent votes, respectively, and up to the last election were the highest referendum votes on record in Rochester. It is safe to assume that the question received substantially maximum attention from the voters.

The charter was drafted with a careful consideration of the complexities in municipal law attendant upon the enactment of the home rule enabling act of 1923. At first glance, the problem would seem relatively simple. But an inspection of the conditions imposed indicates

otherwise. In the first place, if a city in New York State has a charter which covers rather completely the whole range of municipal government it can be wiped out by enactment of a local law. But a complete new charter cannot be substituted, because the law expressly forbids enactments of local law which affect the schools or the courts. Consequently, cities having destroyed their charters find themselves incompetent to replace them by local action. In drafting the Rochester charter this consideration brought about the determination to proceed by amendment of the old charter, writing in new material, superseding or repealing certain parts, and eliding words and phrases inconsistent with the new plan of government. This resulted in a charter which is virtually comprised of three parts, i.e., new material, old charter sections retained intact, and old charter sections as changed by elision. The result is somewhat crude but is much more safe and secure in its operation than a smooth and tidy new charter.

Some legal questions are yet to be solved, for it was at no time hoped that litigation over the new instrument could be avoided. In fact, a suit is now (March, 1926) in progress to test out some of the new provisions. The most serious attack which this suit can make appears to be upon sections of the charter providing for non-partisan primaries and elections by introducing nominations by petition and ballots without significant emblems. It is evident that there is considerable doubt as to whether or not in New York state a city can work changes in the election law affecting the election of its officers, even though the home rule law does give cities the power to determine "the mode of selection" of their own officers. It is claimed that the election law "in terms and in effect applies alike to all cities," and that cities are without power to make changes in it. It is clear that the settlement can only be made by court adjudication.

The city manager plan was the result of a long and rather well worked out campaign of education and of fostering public sentiment. The first virile evidence of public interest came with the formation of a city government plan committee of nine members chosen from representative organizations. This committee requested the Rochester bureau of municipal research to assist it in gathering data and set about to discover the merits of the three most extensive types of city government. A large group of cities was visited by the bureau, and as careful an analysis of the local government as was possible in the available time was made and the results obtained thereby appraised. This committee, at the conclusion of its work, voted five to two (two members did not

vote) to recommend the adoption of a city manager charter and urged that the Rochester bureau of municipal research do the work of drafting. The City Manager League came into existence at this juncture, endorsed the request of the plan committee relative to the drafting of the new charter, and proceeded to build up sentiment for the plan, finally enlisting about 22,000 members.

Initiation of charter changes under the New York home rule law is carefully reserved to the common councils or municipal assemblies of the cities. Unless the aldermen are willing, no changes can be made. Human nature naturally makes these officials reluctant to start a chain of actions which may result in making the chances of their remaining in office impossible or at least very remote. It is necessary for any community to demonstrate in an unmistakable way what it wants with regard to fundamental charter changes before the initial step toward their adoption will be made. The Rochester common council, after the manager charter had been introduced, learned that a monster campaign was planned along the lines of the organizations used for community chest drives and, acting before the date for the campaign arrived, adopted the new charter for submission for the people's approval at the fall election.

It became necessary to change the stated object of the campaign from a drive for signatures asking for a "right to vote" upon the charter to a campaign asking for out and out endorsement of the plan, and a pledge to aid in its adoption. This drive was most successful in many ways, for the 1,200 workers secured about 66,000 signatures. It was estimated that of the original 22,000 City Manager League members, 11,000 were signers of the monster petition. The balance of the members combined with the petition signers, made a total of 77,000 persons favoring the manager charter. The campaign was staged in August.

Of the 77,000 adherents, but 40,000 were registered on the registration days. This regrettable shrinkage was not entirely avoidable. It made the margin of certainty in the election uncomfortably small, but resulted in a concentration on the work of getting out the vote on election day.

Brisk and bitter opposition to the adoption of the plan centered in an organization which materialized a few weeks before election day under the banner of the "Non-partisan League for the Preservation of Popular Government." It should be noted that this seems to be the stock name for the city manager plan's opposition. It is probable that its appeal is found in the same underlying motive which makes the opposing orators

call upon the shades of departed patriots to rescue the beleaguered city from the hands of those who are about to wrest the last remaining vestiges of liberty from an oppressed and downtrodden people. Though the Non-partisan League made progress in its campaign, its work was started too late; the City Manager League had worked up its support too thoroughly to be destroyed in three weeks.

Election day brought to a close ten months' strenuous effort on the part of the manager plan workers. It is known that since election day the plan has gained adherents; they are bound to come to any winning cause. Politicians are now burning the midnight watts, chewing on the stub ends of lead pencils, and figuring how they can work the new scheme to make the charter and the new government take nourishment out of their hands.

STEPHEN B. STORY.

Rochester Bureau of Municipal Research.

Kansas City, Missouri. In February, 1925, Kansas City adopted the city manager plan by a substantial majority. The vote was 37,504 in favor and 8,827 against. The new plan went into effect in April, 1926. An interesting feature of the Kansas City charter is the more than ordinary emphasis placed on the position of mayor. The mayor is chosen by popular vote and is given a salary of \$5,000 per annum. His position carries with it some appointing power and he is authorized to demand reconsideration by the council of any vote on the passage of an ordinance. In the campaign for the adoption of the new charter both Democratic and Republican parties were divided, and the instrument was adopted through the support of the dominant element in the Democratic group and that faction of the Republican party headed by the mayor and most of the city officials. Mr. H. F. McElroy has been chosen manager at a salary of \$15,000. Previous to his appointment he served as a member of the county court in 1923 and 1924, and before that time was a member of the city planning commission.

Seattle, Washington. The success of the manager movement in Kansas City and Rochester was offset by defeat of the plan in Seattle on two occasions, namely, at the March, 1925, and March, 1926, elections.

In the election of March, 1925, the combined opposition of politicians and organized civil servants resulted in a defeat by 4,519 votes. A clause in the charter which provided that the city manager was to have the final decision regarding the dismissal of civil service employees accounted

for the opposition of the city personnel. It is believed that a majority of Seattle citizens favored the plan in principle but were divided regarding details. The basis of this belief is the fact that at the same election three councilmen supposedly favoring a city manager plan were elected, whereas their opponents, who had actively fought the city manager amendment, were beaten by large majorities.

The results of the March 9, 1926, election do not clear the situation. The issue was somewhat confused in that voters were required to pass on a revised city manager amendment and at the same time on a proposal to create a freeholder's commission for charter revision. According to the latest unofficial reports available at the time of writing, the manager amendment was defeated by a margin of 103 votes, 36,709 against and 36,606 for. However, the voters endorsed the proposal creating a committee of fifteen to revise the existing city charter, by an apparent vote of 33,034 to 28,331. Near the close of the campaign the organization which backed the majority of the fifteen successful candidates for the committee announced that it would favor a city manager plan different from that which the voters rejected at this election. Evidently the manager movement in Seattle has not yet run its course.

At the same election Mrs. Bertha K. Landes was chosen mayor of Seattle. She has been a member of the city council since 1922, serving as president the last two years. Mrs. Landes is the wife of Dr. Henry Landes, dean of geology at the University of Washington.

Cincinnati, Ohio. Lieutenant-Colonel C. O. Sherrill of Washington, D. C., first city manager of Cincinnati, took office January 1, 1926. During the World War Mr. Sherrill commanded the 77th (New York) division, but since the war he has been generally out of line duty. He has been aide to Presidents Wilson and Harding and, more recently, supervisor of parks and public buildings in Washington, D. C. Of the nine members of the Cincinnati council, six are enthusiastic supporters of the new charter. Murray Seasongood, a leading Cincinnati attorney and father of the "Birchless Ballot" campaign, was elected mayor by the council.

Cleveland, Ohio. Opponents of city manager government call attention to the increased cost of the government of Cleveland under City Manager Hopkins. They point out the fact that in 1924 \$1,868,000 more was spent from the general fund than in 1923 and that the surplus at the end of 1924 was only \$528,000 as compared with a surplus of \$1,523,000 at the end of 1923. Advocates of the manager plan argue that the apparently greater cost is offset by a higher quality of service. It is

pointed out that when the city manager took office he found departments under-manned, employees under-paid, property neglected, equipment deteriorated, and engineering supervision inadequate. The balance left by the Kohler régime at the end of 1923 was expended, not in operation costs, but for capital improvements. Essential city services were improved all along the line.

Elections. Kansas City, Missouri. The first election under the new charter of Kansas City, which was held on November 3, 1925, was definitely partisan. At least, candidates endorsed by the two political parties were elected, and the general interpretation of the results is that the election was a test of the strength of the two parties and that the winning group will control the new administration as a party proposition.

Under the charter, four members of the council are elected from the city at large, four are elected one from each of the four districts, and the mayor, the ninth member, is of course elected at large. One of each of the members elected at large must reside in each district. The ballot is non-partisan. Candidates are nominated by petition. All except two candidates for each office are eliminated at a primary.

A considerable number of candidates were nominated. The Democratic party and the Republican party each nominated a ticket. In the campaign these tickets were not officially known by the party name, but were known by the names of the respective candidates for mayor; thus, the Republican group was known as the Beach group and the Democratic group was known as the Jaudon group. There was no independent citizens' ticket, and no organization was formed for the purpose of endorsing or electing such a ticket. At the primaries, all the candidates from the two groups were nominated, and no independents. Thus, the final election was a choice between Democrats and Republicans for the positions of councilmen and mayor. Three members of the council elected are Republicans, five members are Democrats, and the mayor is a Republican.

While this recital indicates that political parties have won a complete victory, it does not tell the whole story. The effect of the non-partisan ballot, a smaller number to be elected, and the elimination of the small wards was very evident, both during the campaign and in the result of the election. In the first place, the candidates were of a higher type than has been usual in Kansas City, and the council elected is the most capable the municipality has had in many years. In the election,

Republican candidates secured relatively large votes in normally Democratic districts, and Democratic candidates secured relatively large votes in normally Republican districts. The influence of the non-partisan voter was very evident.

The result, then, is that the first administration under the new charter is regarded as a partisan administration. It is so regarded not only by the public generally, but by the councilmen themselves. The Democratic majority selected the manager and merely had its choice ratified by the council as a formality, none of the Republican members voting in the naming of the manager. The manager selected is a partisan Democrat and does not hesitate to say that the administration will be a Democratic administration. The heads of the various departments will very likely all be Democrats, and most of the positions of the city government will be filled by Democrats.

In spite of all this, those in Kansas City who are in touch with the situation are expecting rather good results from this first administration. The council is a capable council, far above Kansas City's average. The manager is a capable man, who would probably be a much better manager if he were not bound with partisan ties. Both the manager and the council seem determined to give efficient government, though they are, of course, handicapped by the necessity of considering partisanship in making appointments.

The administration will be an experiment. Will the concentration of responsibility and authority result in securing a reasonably high-grade government from a party organization which in the past has not given good government? If the result is good, a principal argument against the manager plan—that is, if it gets into the hands of political machines, it is bound to fail—will be destroyed.

WALTER MATSCHECK.

Kansas City Public Service Institute.

Cincinnati, Ohio. In the November elections of 1925, the city of Cincinnati chose nine councilmen to govern under the manager system. Perhaps the chief interest in this election lies in the fact that the council was chosen by proportional representation, under the Hare system of single transferable vote. Cleveland also uses proportional representation and, indeed, experimented in one election before this method was used in Cincinnati. Cincinnati is the second largest city in the United States to select its legislative body in this way; but it has the largest election district, comprising the entire city, while Cleveland is divided into four

districts of unequal size. Further interest lies in the fact that there has been in Cincinnati a powerful political party which had dominated the community for years. This party machine was unable to utilize the new election machinery to continue in power. An analysis of the election may be useful as showing whether the proportional representation system will reflect the popular will and constitute machinery the people are competent to use.

The situation leading up to the charter amendment of 1924, which abolished the mayor and large ward-council system of government, with officers elected on party ballots, and substituted therefor the city manager plan, with a council of nine members elected at large by proportional representation, has been commented upon in these pages.¹ The vote was decisive (92,091 to 40,365). It is doubtful whether the proportional representation sections of the amendment brought it election strength. There was more interest in the non-partisan feature, although a movement to abolish the party circle on the ballot, out of which the successful plan evolved, had developed little strength. The manager plan was generally approved, but the real motive in the reform lay in the desire for a change in control. The Republican party would have lost almost any election held at that time. The problem for the new charter proponents was to sustain popular interest during the intervening year and elect officials sympathetic with the new system of government.

A city charter committee had been organized to win the charter election. It had fought for an issue, not for candidates. It developed a well-organized ward and precinct machine and political generals of unusual sagacity. Its purpose accomplished, what should be its course? Should it put a ticket in the field? If so, should it endorse a full slate or a partial one, in the hope that the independent candidates would bring aid from all quarters? Should it stand for issues rather than men and refuse to form itself into a political party? There were differing counsels for a time. But practical necessity decided the issue and a slate of nine candidates was made out, each of whom promised to support the charter ticket. Effort was wisely made to balance the ticket, and three places were accorded the Democrats. This minority group had seldom secured more than a single representative out of the thirty-two in the large council. Having fared so well on the charter ticket, the Democrats decided to put up no ticket of their own. The election was, then, in a measure, a fusion movement of the minority party and the independents.

¹ Vol. XIX, pp. 328-31 (May, 1925).

The others were Republicans. One of the independents, Murray Season-good, had for two years been the leader in attacking boss rule in Cincinnati, and another had been an insurgent member of the old council for ten years and had held other public offices. Two charter candidates, both Democrats, were Catholics, another was prominent in Y.M.C.A. and church work, and another was a Jew. Four were lawyers, three business men, one a labor leader, and one a social worker. Geographical requisites of a well-balanced ticket were fairly well observed. The Republican organization was slow to act and apparently was at something of a loss to know how to use the new machinery. Conferences with the party leaders in Cleveland brought the reassuring statements that the new method was as easily handled as the old. After the time had elapsed when nomination papers might be filed, the Republicans endorsed six candidates. At one time there were seventy candidates in the field. Many had entered the race in the hope of endorsement by one of the groups. Some of them now dropped out. All six of the Republican candidates were of the machine type. There was no "window dressing" of prominent citizens as of yore. Four had been in the council, another was president of the central labor council, and a sixth was a junior order trustee.

The campaign strategy of the Republicans differed from that of the charter committee. Previous municipal elections showed their strength as follows: in 1919, 69,547 votes to 41,061 for the Democratic, 22,122 for the Independent Republican, and 3,015 for the Farmer-Labor candidate; in 1917, 43,358 to 38,848 for the Democratic contestant, and 11,038 for the Socialist. Normally, they should elect five or six of the nine councilmen, and they decided to concentrate their efforts on securing control of the council and the manager. They further apportioned the city into six districts, instructing their workers in each to throw the support to the candidate to whom it was awarded. This system was of doubtful value. While nothing was gained by submitting the shorter ticket, probably nothing was lost, unless there had been hope of electing a seventh councilman or that the seventh, eighth, or ninth might have brought added strength to the ticket. But the ticket they banked on represented machine strength only. The allotment of districts was not entirely satisfactory to the candidates, particularly the stronger ones. In newspaper support the charter committee had the advantage.

On election day there were thirty-nine candidates. The names rotated on the non-partisan ballot. At the same election six other ballots were voted and four different methods of marking were employed. On

the councilman ballot, preferences were recorded by numerals; the school board and judicial ballots were marked by crosses before the names of the candidates on non-partisan, rotating ballots; while the ballots for constitutional amendments differed from the ballots on city bond issues in having the place of the cross before rather than after the statement of the issue. The omission of a ballot of the party circle type was an unusual feature. Yet the number of spoiled ballots was surprisingly small. A few used numbers on the bond issue and school election ballots; some used crosses on the combined ballot. But the percentage of spoiled ballots was only three (half being void because blank), whereas in Cleveland it was 7.6. And this included all ballots marked with ink or other pencil than the one supplied officially. There was no evidence of confusion at the booths. The vote from some of the negro precincts was, however, unusually light.

The Cincinnati charter provides that there shall be no opening of the ballot boxes in the precincts. All were sealed and taken to a central counting room in a convention hall. This undoubtedly diminished the opportunity for a dishonest count. It is probable that the success of the charter committee in both the 1924 and 1925 elections was largely due to its close supervision of the counting process. The counting method used was to distribute the ballots, precinct by precinct, into thirty-nine drawers corresponding to the respective candidates. The first count showed not only the relative strength of the two parties but that those without organized party aid were hopelessly distanced. Of the 119,487 valid votes cast, the charter group received 76,129 on the first count, the Republican group 33,125, and the unendorsed candidates 10,333. If the party lines held, it was to be expected that the charter committee would secure six places and the Republicans two, and that the ninth place might go to either, or possibly to an independent. The quota necessary to elect was 11,974, which was exceeded by but two of the candidates, Mr. Dixon and Mr. Seasongood, both of the charter ticket, with 21,699 and 20,543 votes respectively. The third, sixth, and seventh candidates were Republican.

The next move in the count was to distribute the Dixon surplus votes. Would they go to another charter candidate, another Catholic, another Irishman, or another from the section in which Mr. Dixon resided? Interest in the distribution of Mr. Seasongood's surplus was equally keen. Space does not permit an analysis of these transfers, nor of those of the eliminated candidates. Suffice it to say that the only "group consciousness" notable was that of the two organizations supporting

tickets. Few transferred votes crossed from one group to another. The religious, nationalistic, and residential "blocks" talked of so much failed to develop in this election.

The counting was slow and expensive. The final elimination which decided that the ninth place would go to a Republican came on the eleventh day after the election. This gave the charter committee six and the Republicans three of the nine seats. The cost of conducting the election was approximately \$75,000—some \$35,000 in excess of the usual figures. A saving of over \$30,000 was effected, however, by the elimination of the August party primary. It should be said in this connection that as this was the first election of this character, and a very large one, it was difficult to visualize and plan for it; and a contested election, with a possible recount, was above all to be avoided. The election board moved cautiously—though it was not above employing clerks who were more useful at the polls during the election than in counting the ballots after. An official of the Proportional Representation League, who watched the election carefully, stated that well-trained clerks and more mechanical divisions could have reduced the time required to one fourth that used, and also the cost of the election materially. This opinion is shared by the chairman of the charter committee.

The result of the election has been well received. The people, in general, elected the candidates they preferred and seem disposed to regard proportional representation as a successful device for accomplishing their end.

S. GALE LOWRIE.

University of Cincinnati.

New York City. State Senator James J. Walker, Tammany Hall candidate was elected mayor of New York by a plurality of about 400,000. The Smith-Tammany forces were successful all along the line. General Charles W. Berry was elected controller and Justice Joseph V. McKee president of the Board of Aldermen, and a great majority of the seats on the Board of Aldermen were secured by Democratic candidates. The Democrats also gained complete control of the Board of Estimate and Apportionment. The victory was a decided triumph for both George W. Olvany, new leader of Tammany, and Governor Alfred E. Smith, who supported Walker in the primaries as well as in the election.

Boston, Massachusetts. For the first time in sixteen years, the mayoralty of Boston is held by a Republican. Mr. Malcolm E. Nichols

was the winner in the November elections by a small plurality over the next highest candidate. The success of the Republicans was made possible by factional warfare in the Democratic party. Of a total vote of approximately 150,000, nearly two-thirds were cast for candidates other than Mr. Nichols. Theoretically, of course, the election was non-partisan, but almost all of the candidates stressed their party affiliations. At the same time, Boston also voted for a new city council of twenty-two members—an enlarged body with a member from each ward.

Cleveland, Ohio. On August 11, 1925, an attempt to strike out the proportional representation provision of the Cleveland charter was defeated by a narrow margin in a referendum vote. In all, 20,918 voted to retain P. R. and 20,353 to discard it. The result of the election was somewhat of a surprise. In the first place, the vote was unusually light, less than one fifth of the city's electorate participating. In the second place, the victory of P. R., despite the united opposition of Democrats and Republicans, was quite significant in view of the light vote cast. Party leaders had assumed that if the vote was light they were bound to win, since they were certain that their own forces, at least, would turn out *en masse*. Under the circumstances, the vote seems to indicate the extent to which the power of the two old parties has been nullified in Cleveland.

Having survived the August election, P. R. received its second application in the councilmanic election of November 3. The results were not unusual. Many of the old councilmen were reelected, and party lines remained about the same. The Republicans are still in control of the council. No change in the operation of the city manager plan is likely as a result of the election, for City Manager Hopkins is in so strong a position that any effort to dislodge him seems extremely unlikely at present.

Home Rule. In New York. The progress of the home rule experiment in New York State was considerably handicapped during 1925 by the question of the validity of the constitutional amendment itself, which was raised in connection with litigation in New York City to restrain municipal ownership and operation of buses. The question presented in the case of *Browne v. The City of New York*, 241 N. Y. 96, was not a home rule question, but a question of the procedure to be followed in amending the New York state constitution (see McGoldrick, "Home, Rule in New York State," published in the Review for November 1925, for a discussion of the case and of the amendment itself). From

July 6, when the Appellate Division of the Supreme Court in New York City pronounced the amendment void, until September 2, when the Court of Appeals, the highest court in the state, unanimously reversed it, few of the cities of the state were inclined to invoke their powers under it.

Two important pieces of legislation were, however, passed during this interregnum. Both were charters. The first was the widely heralded city manager charter of Rochester. The second was a commission government charter for the little city of Sherrill, with 1,716 inhabitants, which was submitted to the people at a special election and ratified on August 11. The Rochester charter did not come before the people until the regular election in November, when, the home rule amendment having been completely sustained, it was ratified by a very substantial vote. It is understood that the local political organizations of the city would have been far less ready to pass the charter through the council had they not labored under the impression that the home rule amendment was quite dead. The vote on the submission of the charter was actually unanimous. This action later precluded open opposition from the political factions, though their support was mild.

The preparation of the charter in Rochester presented some interesting legal questions that demonstrate the difficulty of securing a genuinely new city charter under the New York amendment. A city's powers extend only to its "property, affairs, and government." It may touch no other matters in its existing charter. It may, on the other hand, go to the extent of repealing, as far as it is concerned, any law of the state dealing with its "property, affairs, and government" which does not apply in both its terms and effect to all cities of the state alike. Rochester could not, therefore, abandon its original instrument, but it could include many new or altered arrangements on topics within its power. In drafting the new charter, the existing provisions which the counsel of the charter group decided could not be altered were carried over, and at the end of the document is appended a list of existing state laws repealed by provisions therein contained. Little Sherrill bothered with no such problems, but proceeded to write its charter (which equals that of Rochester in length) *de novo*.

These two documents fill almost a third of a volume of local laws which the Secretary of State is about to publish for 1925. The volume has grown now to 310 pages, as compared with 80 last year. Up to the close of the year, 13 of the state's 58 cities had taken no action. Since that date, two, Ogdensburg and New Rochelle, have commenced local

legislation. With the exception of Troy, the cities which have taken no action are smaller than the average city in the state. Six of the cities which acted in 1924 passed no legislation during 1925. The total has now grown to 253 local laws, of which 24 were added during January and February of this year. The average, excluding New York City, which passed 20 before this year, is slightly more than 5 apiece for the other 44 cities which have acted. At least one of these five is the result of the required provision for hearings on local laws. The small quantity is in part attributable to the uncertainty caused by the Browne case and in part to the caution inspired by the approach of municipal elections. The total is very much below the amount of local legislation in the state legislature annually before the amendment. Most of this difference, however, may be attributed to the fact that New York City has made relatively little use of the amendment, whereas its charter formerly consumed a great deal of the legislature's attention.

The character of the local legislation is of a piece with its quantity. Few of the laws enacted have been of any particular significance or novelty. Salary and pension items continue to predominate, especially since November. Thirteen of the twenty-two bills introduced in the New York City municipal assembly since the opening of the year relate to pension and civil service matters. The same is true of half of the bills enacted last year. It should be pointed out, on the other hand, that many of the bills are matters of local administration, and that certainly all of this legislation should be enacted by those responsible to the local electorate. Indeed, the attention of the local electorate is probably the most significant check upon the local legislative output. While the home rule experiment has thus far been productive of few constructive achievements, the Rochester charter being the one striking exception, there is little indication of any desire to have the state resume its jurisdiction in these matters, except, perhaps, as to pensions.

Litigation has made little progress. The case of *Browne vs. the City of New York* is the only one to have been passed upon by the final court. The court decided merely that neither the amendment nor the enabling act empowers cities to engage in the operation of bus routes. It declined to say whether the city possesses any powers over public utilities. The prohibition enforcement laws enacted by Watertown and Geneva have reached the Court of Appeals. There are also a number of civil service cases involving legislative enactments challenged under the general laws clause.

The cities are approaching this newly granted power with noticeable and creditable circumspection. If there have been no outstanding constructive results, it is equally certain that there have been no tendencies that need in the least weaken the confidence of its proponents in the ultimate beneficence of this experiment.

J. McGOLDRICK.

Columbia University.

In Wisconsin. The enabling act passed by the 1925 Wisconsin legislature in order to give effect to the home rule amendment of 1924 provides a variety of methods of home-rule charter making. Charters or charter amendments may be submitted to the people directly by initiative petition. City councils are also given the authority to draw up charters or charter amendments and submit them to the people. A third alternative permits a city council to submit to the voters, in one or more forms, the proposition of holding a charter convention. The Wisconsin act does not require that the first exercise of home rule powers be the adoption of a wholly new charter. Amendments to existing legislative charters are at once in order.

In Minnesota. At the spring session of the Minnesota legislature, the so-called "Indiana plan" was defeated. This plan gives over to a state commission a large measure of control over city budgets. The defeat of the plan is heralded as a victory for the principle of municipal home rule. The measure was actively opposed by the Minnesota League of Municipalities. The Minneapolis Real Estate Board and the Minnesota Real Estate Association supported the bill.

In Illinois. The latest development in the controversy between Cook County and the down-state counties relative to reapportionment of the legislative districts in the state is a threat of secession from Illinois to form a new state. A resolution adopted by the city council of Chicago on June 30 calls for a two-year campaign for reapportionment, which is to be followed by a secession movement if the general assembly once more fails to redistrict the state at the 1927 session. Despite the provision of the state constitution that there shall be a reapportionment every ten years, no such reapportionment has been made since 1901. The lack of action is attributed to the reluctance of down-state representatives to give Cook County virtual control of the legislature. Secession seems unlikely, but it is probable that a compromise will be reached at the next session. An obstacle to the possible secession movement is the

provision in the United States constitution that no state may be divided without the consent of the legislature thereof.

Planning. City Plan of Cincinnati. Cincinnati, which is the first large city to adopt a comprehensive city plan, has a program looking forward fifty years. The plan embraces not only the present city area but an additional three-mile area outside. With a view to guiding intelligently the expansion of the community, the plan makes provision, in the most careful detail, for comprehensive zoning, transportation, recreation facilities, and prescribed methods of financing. The ordinance provides that there can be no use of private property contrary to the zoning and platting regulations of the plan, except uses in existence at the time of the plan's adoption. A two-thirds vote of the city council after public hearing, plus the approval of the department affected, is necessary for the location or development of a street, building, or public utility contrary to the plan. A complete new plan for handling traffic in the downtown section is included, together with specific arrangements for re-routing traction lines and bus lines where advisable. The transportation program includes recommendations for re-routing through freight around Cincinnati and for the location of a union passenger station and yards. The work has been done thoroughly, both as to essential details and as to legal safeguards designed to ensure the carrying out of the provisions of the plan. The Cincinnati plan seems destined to be one city plan that will be given adequate opportunity for realization.

Metropolitan Consolidation in the Pittsburgh Area. At an extra session ending February 18, 1926, the Pennsylvania General Assembly approved a proposed constitutional amendment authorizing the General Assembly to provide by law for the consolidation of the cities, boroughs, and townships of the county of Allegheny into a consolidated city government to be known as the city of Pittsburgh. The amendment provides that any such law shall be submitted to the electors of the county for approval. According to the Pennsylvania constitution, this proposed amendment must be passed by the General Assembly next chosen and then adopted by the voters of the state before becoming a part of the constitution. There is no area in the United States in which the metropolitan problem exists in more aggravated form than in the district including Pittsburgh. The territory around the present municipality includes three third-class cities, sixty-eight boroughs, and fifty-five towns. The total population of these units is about fifty per cent greater than that of Pittsburgh itself.

Under authority given at the 1923 session of the legislature, the governor of Pennsylvania appointed a commission to study municipal consolidation in counties of the second class. This commission reported to the governor and General Assembly on February 28, 1925. In its report the commission, of which Joseph T. Miller of the borough of Edgewood is chairman, recommended the establishment of a consolidated government in Allegheny county, so organized as to leave the constituent smaller municipalities "proper and reasonable control of their local affairs." The 1925 legislature, which continued the commission in existence, made a small appropriation for its expenses and authorized it to receive contributions from the cities and boroughs concerned and also from private sources. The commission proposes to make an adequate study of the whole financial and administrative situation in the area.

Cities Unite to Get Water. A year or so ago nine cities on the east side of San Francisco Bay, including Oakland, Alameda, and Berkeley, united to form the East Bay Utility District for the purpose of obtaining an adequate water supply. A bond issue of \$39,000,000, to be used for the construction of a reservoir at Lancha Plana, has been approved by the voters of the district. Lancha Plana is eighty-seven miles distant.

Regional Planning in New York State. Industrially, the Niagara frontier, including Erie and Niagara counties, is part of an area of which Buffalo is the center. Politically, this area has been split up into many different units. The apparent necessity for centralized control led to the passage of a bill at the last session of the New York legislature creating a commission to investigate and report on the situation. The board is composed of city and county officials of the Niagara region.

Miscellaneous. The Death of George Burnham, Jr. George Burnham, Jr., treasurer of the National Municipal League from 1894 to 1919, died November 22, 1924. The field of municipal government has lost a tireless worker. The following quotation from the Philadelphia Public Ledger is a fitting memorial: "He stood consistently for everything that was honorable and upright and law-abiding in municipal government. . . . His city will commend him to posterity as a shining example of high-minded citizenship."

Financial Program of Detroit. A committee of two bankers and three manufacturers, appointed by the mayor of Detroit, has drawn up a ten-year financial program for the city. The original estimates by

departments and commissions of projects and improvements already under way or deemed necessary totalled a billion dollars. The committee reduced these estimates to \$444,991,000. According to the committee's program, the necessary revenue is to be obtained from the following sources: departmental revenues, \$10,085,000; special assessments, \$63,528,000; bonds, \$273,113,000; taxation, \$98,265,000.

Municipal Ownership Ordinance Defeated. Chicago voters decisively defeated an ordinance sponsored by Mayor Dever that would have permitted the city of Chicago to acquire the local surface and elevated lines. The measure was lost by a majority of 105,000 at the election of April 7. A widespread feeling that the plan, although apparently giving the city control, was actually to the advantage of the interests that have dominated traction affairs in Chicago for years, was one of the main factors in the defeat of the ordinance. The plan provided that the city shall take over and unify the surface and elevated lines; and control and management were to be vested in a municipal railway board composed of nine members, three to be appointed by the city, three by a security-holders committee, and three to be chosen jointly by the committee and the mayor. Tenure of office was set at nine years, and no provision was made for removal. The project was to be financed by the issue of bonds against the property acquired and the earnings of the utility.

Ohio Amendments Voted Down. Ohio voters disapproved of three proposed amendments to the Ohio state constitution at the election of November 3. One of the amendments sought to write into the constitution the contents of the Griswold law imposing restrictions upon municipal indebtedness. Another, known as the "classification amendment," sought to remove intangible property from the application of the rule that taxation on all classes of property must be uniform. The third amendment provided a four-year term of office for state and county officials who are popularly elected.

FOREIGN GOVERNMENTS AND POLITICS

EDITED BY WALTER J. SHEPARD

Brookings Graduate School

Women Members of European Parliaments. Rose Macaulay, among others, has said that "women are always news." When all else fails, murders, suicides, and divorce cases, journalists can still propound some such question as "can a woman drive a car as well as a man?" and they are sure of a hearing.

If it were not for the eternal interest of the public in women as women, women in parliaments would no longer be news. In these last few years there have been nearly a hundred sitting in the various parliaments of Europe, and now and then even the newspapers have shown signs of forgetting that they are there.

There is something odd about the geographical position of the countries in which these women members, deputies and senators, are to be found. They exist in a fringe around the north and east of Europe. France, Italy, Spain, and the other countries along the Mediterranean are out of it entirely. Upon closer analysis the situation grows even more mysterious. To find the group of women legislators of longest standing, one must go up beyond the Scandinavian countries, to the Finns, who live farther north than any other civilized people in the world. There are nearly twenty women in the Finnish parliament, and one of them has served her fifth three-year term.

The Scandinavian countries, the familiar homes of women doctors and women lawyers and women scientists, all have women in their parliaments. What is there about the barren north which stimulates women to go into law, medicine, and politics? And what is there about blue Mediterranean skies which keeps them out of the professions and out of politics, and induces them to spend their days running little shops? Some promising candidate for a doctor's degree in sociology should contemplate the merits of this question as a thesis subject.

We should expect to find women legislators in the Scandinavian countries and in Holland; but in Germany, where the Kaiser's three "K's," *Kinder, Küche, und Kirche*, have been accepted as a kind of creed for women, the phenomenon is a little more unexpected. And yet there

have been from thirty to forty women in the German Reichstag since the Weimar constitution was adopted.

In the Ukraine, that uneasy and unsettled fragment of old Russia, there have been several women in each post-war parliament. Hungary, the exponent of an ancient and conservative order, has had one woman member, and at the other end of the scale Czechoslovakia, which is called the socialist republic of Europe, has had ten to fifteen women in its two representative houses since the new government was established. And of course there is always England, with its firebrand first member, Lady Astor, elected in 1919, and its eight members, three Conservative, two Liberal, and three Labor, under the Labor government of 1924.

Lady Astor, formerly Nancy Langhorne of Virginia, the first woman to be elected to the House of Commons, took her seat in 1920. She is a nervous, wiry, attractive little woman, with a ready wit. She has played her part in many scrimmages in the House since she first took her seat, and the other members have learned to know that a quiet dark hat and a quiet dark tailored suit do not indicate a quiet and retiring "lady member." Her maiden speech was on the subject of prohibition, for she is one of the most active enemies of "the trade," as the business of manufacturing alcoholic beverages is called in England.

Lady Astor's own description of her own methods is given in the following words by Marjorie Shuler in the *American Review of Reviews* for January, 1924: "I get very keen on a thing and go after it. The men say 'There's that terrible woman'; and they run away from me. They turn to Mrs. Wintringham and say, 'There's that good, kind, homely woman; let's talk to her'. And Mrs. Wintringham just smiles and smiles, and skins them alive—but they don't know it."

Mrs. Wintringham was one of Lady Astor's first colleagues. When there were only three women in the House, Lady Astor, Mrs. Wintringham, and Mrs. Clara Phillipson, they were known as "Society, Sobriety, and Variety." Lady Astor was obviously "Society." Mrs. Phillipson, who had been on the stage before her marriage, was "Variety." And Mrs. Wintringham, whose manner Lady Astor accurately described in the words quoted above, was quite as appropriately "Sobriety."

Margaret Bondfield was easily the most conspicuous member of the group of eight women in the House of Commons under the Labor government of 1924. She is a vigorous, bright-eyed, dark-haired woman, who started professional life as a clerk in a shop. She has held one position after another of great importance in the trade-union world, and finally, as parliamentary secretary to the ministry of labor, she became the

first woman member of a government. In that capacity she was called upon to make a number of speeches from the government benches. Her first, one of the newspapers said on the following day, was "the first intellectual speech by a woman the House had ever heard." Her voice is clear and good; not powerful, but pleasant and at the same time penetrating; and after she learned the technique of constructing a speech indicating government policy, she became one of the Labor government's most effective speakers.

The most picturesque figure in the German Reichstag in these years of women's participation has been Baroness Katharina von Oheimb, a member, until recently, of the People's party. Yet the rest of the women in the Reichstag regarded her as an outsider and openly called her one, for the reason that the possession of wealth and social standing played a part in her political advancement, while almost all the others stood on independent reputations as teachers, social workers, or professional women in other fields.

Baroness von Oheimb has been married three times. Of her first husband history records little. The second, the very wealthy Herr Albert, fell over a precipice one day when he was walking in the mountains with his wife. The third, Baron Joachim von Oheimb, gave the Baroness an enviable social position to add to her already considerable wealth, and they subsequently separated. The Baroness now has important business interests, and she is the editor and publisher of Berlin's picture paper "ABC." She has political as well as social influence, and her political dinners are famous. She is said to have told the late President Ebert over the telephone, when he suddenly said, in a moment of caution, "What if we were overheard!" "It would greatly enhance your reputation, Fritz."

In spite of the fact that she is regarded by the other women members as an outsider, Baroness von Oheimb was, and remains, the most influential woman in German politics. She is the only woman who is trying to enlist the interest and active support of German women as voters. She has broken with the People's party, and has apparently considered forming a separate women's party.

Baroness von Oheimb lost her seat for a reason which would be comprehensible in the field of politics the world over. Just before the elections of May, 1924, a writer in the Berlin *Kreuz-Zeitung* taunted the People's party with its "petticoat politics." The Baroness promptly replied that the customary Conservative ignorance was illustrated by that remark, for petticoats had not been worn for years. Unfortunately

for the Baroness, her constituency, Magdeburg, clung to the older customs in dress. At the next election Baroness von Oheimb ceased to be its representative.

The other women members of the Reichstag have been less active. They have spoken little from the floor, and they have not been put on important committees. Individually they are vivid enough. Dr. Else Lüders, a member of the Democratic party, was a departmental chief in the civil administration of the Germans in Brussels. It is said that it was she who solved the problem of the long Reichstag discussion as to whether the body of the murdered Rathenau should be carried past the statue of the old emperor. She simply went out and telephoned Madame Rathenau, who replied, "He was always a good friend to my husband; why should his statue be covered up?"

"Comrade" Zetkin, who is Clara Zetkin of the Communist party, is an equally vigorous personality. She was the first Communist to speak in the Reichstag, and she boldly made her maiden speech an appeal for Russia. When, on another issue, she was "booed" from the Right, she threw back, "Nothing but stage thunder to the accompaniment of calcium lights!"

The one woman in the Swedish Senate—there are several in the lower house—is Miss Kerstin Heselgrin, chief women's factory inspector for Sweden. When she was asked to become a candidate for office, she said she could have none of the bother of a campaign, and started off on a factory inspection tour. On the day she came back to Stockholm she noticed in the morning paper the fact that she had been elected to the Senate.

Czechoslovakia has had its unique incident, for although there are a number of women in the two houses, representing the assortment of political parties which is universal in Europe today, Alice Masaryk was elected unanimously by all parties, as a kind of tribute from the nation. The Czechoslovak lower house has members of another tradition as well, for Slovak women with shawls over their heads, representatives of a class which regards the hat as an occidental affectation, clump heavily down the aisles of the chamber.

Finland's woman legislator of the five three-year terms, Miss Annie Furuhjelm, represents another type still. She is the daughter of the last Russian governor of Alaska, and is a newspaper editor, an accomplished linguist, and a strong internationalist. Hungary has seen a working woman, one whose career is something like Margaret Bondfield's, have lively times as a Socialist member of a Nationalist house.

Except in Finland, where women serve on important parliamentary committees, the activities of the delegations of women have been modest. Even in Finland they do little speaking from the floor. A German woman sits on the upper tribune at the right hand of the president of the Reichstag as clerk of the house, but there is little else that is spectacular. There is almost no tendency to act as a body; in fact, unified action is almost impossible. Take the Netherlands as an example; that country has had seven women, one from each of the seven political parties, in parliament at the same time. Action as *women* was clearly out of the question.

Because of the number of political parties which the women have represented and the small number from any one party, the popular question "Are women a failure in politics?" has little meaning, as far as European parliaments are concerned. The question is probably suggested by the fact that they have obviously done little as a coherent body, as clericals have, for instance, or peasants, or communists. It is ridiculous to suppose that women elected from seven different political parties should ever attain the same unity of interests as seven peasants. It is the last thing which should be urged. If the women as women have had little influence, it is as it should be. What their well-wishers should hope is that as parliamentarians, speakers, committee workers, promoters of legislation, they will be increasingly able representatives of their constituencies, composed of both men and women as these constituencies are.

For Americans there is a much more disturbing question to be contemplated. It is this: should the class of women eligible for American political life be limited to widows? The Europeans, that is, the Continentals, seem to have an odd idea: that women's qualifications to act as representatives of voters are much like men's; that an eminent teacher, doctor, lawyer, or writer has demonstrated some sort of ability which might serve the country well if it were turned in the direction of politics. Out of Holland's seven women there were three lawyers and one physician. Norway's two members were an architect and the head of a large girls' school. Sweden's senator was chief women's factory inspector. And so the roll proceeds, with almost no exception, save in England.

But the United States, in a strange and sentimental nepotism, prefers widows. Perhaps it is our idea that the American woman is a kind of clinging ivy to her husband's oak; that they are two minds with but a single thought, and that a constituency which has found itself

admirably represented by a husband, unfortunately deceased, can have equal and identical perfection by electing his widow to take his place.

Perhaps it takes a particular kind of ability to live with one of our masculine representatives at Washington; the characteristic of being a good mixer, say; of being able to deal with refractory and wilful personalities; and any one who survives that association may have durable and excellent personal qualities. Or perhaps we merely wish to pay a sentimental tribute, of the kind we offer when we subscribe to a memorial window: something to please the family.

Whatever the reason, American voters would do well to employ a little psychoanalysis on the question; and to make sure that the widows—who, it may be noted, are not prone to re-election—are, in fact, the only women citizens who should be sent to Washington.

ALZADA COMSTOCK.

Mount Holyoke College.

Reconstruction of the Hungarian Parliament. Since the revolution of 1918 the Hungarian Chamber of Magnates, noted among upper chambers for its longevity, has been in a state of suspended animation. Unlike the lower house, the Chamber of Deputies, which disappeared under the tidal wave of revolution at the outset of the Karolyist régime, it never was formally dissolved. Both houses of the Hungarian parliament, yielding to political realities, suspended their sessions and disbanded, many of the members of the upper chamber scurrying to regions under Allied occupation for protection against possible excesses of the revolution. Following the brief interlude of extra-constitutional Karolyist republicanism, under the legislative auspices of the Hungarian National Council, came the communist revolution which swept before it all remnants of the older constitutional structure. But not for long. On the collapse of the Hungarian Commune it became the onerous task of the Allied Governments to find, or to create, a constituent authority capable of assuming unreservedly the obligations of peace-making and domestic reconstruction. The First National Assembly, elected by decree of Stephen Friedrich, then the liaison between the Hungarian nationalists and the Great Powers in Paris, was the result. This single-chambered body, distinctly smaller than the old Chamber of Deputies because of the territorial reduction of Hungary, became, for the purposes of the Allied Governments, the sole repository of national power, and was acknowledged by them, as well as by the nation itself, to have constituent authority.

Exercising such authority, the First National Assembly made its peace with the Allies, accepted dolorously the territorial delimitations and economic servitudes of the treaty of Trianon, and, by the now famous Constitutional Law I of 1920, rehabilitated the executive department of government, substituting for an amorphous "national government" the regency of Admiral Horthy. In addition, following the Karlist adventures of 1921, it dethroned the Habsburgs, thereby rescinding the most solemn constitutional document in Hungarian annals, the famous Pragmatic Sanction of 1723, though retaining unimpaired the free right of the nation to elect its king. Other constituent activity of the First National Assembly consisted in a revamping of the judicial system and a retrenchment of local organization to conform to the territorial prescriptions of the treaty of peace. Only in relation to the provision for its successor, a national legislative body, did the First National Assembly temporize, due, in part, to the desire of the more ardent nationalists not to acknowledge definitively the truncated area from which the nation's representatives should come, and, in part, to the desire of both the regent and Premier Bethlen to manipulate the franchise to their own liking. Suffice it to say that, though the venerable Count Apponyi had advocated in the campaign preceding the elections the creation of an upper chamber of technicians as the solution of the nation's legislative problems during an era of reconstruction, and though M. Tomesanyi, the first minister of justice under Count Bethlen's régime, had enunciated the broad lines along which the rehabilitation of the upper chamber should proceed,¹ the First National Assembly passed out of existence after two years of masterly inactivity without tackling the problem of legislative restoration.

The Second National Assembly, elected for a five-year term in June, 1922, under the truncated franchise produced by the notorious Klebelberg decree, did little more than its predecessor until the vital problem of financial rehabilitation had first been dealt with. Once this was satisfactorily disposed of under the auspices of the League of Nations, it became possible for the Royal Hungarian Government to examine more attentively the problem of the consolidation of the existing constitutional order and to determine both the composition and powers which a reconstructed parliament should have. Naturally, the reconstruction of the lower chamber, being of more vital concern to the existing National Assembly, was first undertaken. As might readily

¹ The text of this project is found in the Budapest *Szozat*, July 1, 1921.

have been anticipated, the body elected under the Klebelsberg decree crystallized into law the political manoeuvre of 1922 and perpetuated, in a statute of July 5, 1925, the essential—and reactionary—portions of the document that gave it birth.

The electoral law is unique in the annals of post-war Europe, not even the Fascist experimentation with electoral jugglery having produced so conservative a document. Perhaps its nearest modern kinsman was the revamped electoral law of 1907 for the Russian Duma, whereby Stolypin undid at a stroke the effects of the older Bulygin law under which the first Duma had been elected. Under the terms of the new law the right to vote is accorded to all men twenty-four years of age who have been Hungarian citizens for ten years, who have resided in a given locality at least two years, and who have had at least four years of primary education. Women thirty years of age who have had six years' schooling also enjoy the vote, though mothers of three children, and women who earn their own livelihood, obtain the franchise with only four years' education. Graduates of institutions of higher learning (in which, it will be remembered, there is a *numerous clausus* for Jews) have the right to vote irrespective of age or sex. The signatures of either one thousand electors or ten per cent of those registered in any district are required to place a candidate in nomination. Voting is secret in Budapest and in cities with municipal home rule, as well as in certain enumerated industrial centers; elsewhere, voting is oral. All propaganda by flags, posters, etc., is forbidden, and electoral meetings are restricted in number and kept under police surveillance. Such is the gist of the law.

Of particular interest are the reasons adduced for its adoption, as well as the arguments of those opposing its enactment. The introduction of the governmental project² in February, 1925, immediately brought back to the National Assembly the various liberal elements that had been boycotting it because of its reactionary measures, and the Budapest Aventines of all complexions voiced their extreme disapprobation, particularly with regard to the oral voting features of the bill. From the extreme Legitimists like Count Julius Andrassy to the Social Democratic group headed by Julius Peidl, consistent opposition to this feature was voiced as "anti-democratic" or "reactionary," or as destined to perpetuate the domination of the upper classes over the Hungarian working-man. Nor did Count Bethlen, in defending the project, deny these

² For an excellent analysis of the bill, see *Bulletin Périodique de la Presse Hongroise*, No. 88, April 2, 1925.

charges outright; rather he invoked the dangers of the concession of too extended a franchise.

"We do not fear the people," he declared, "but we discover that up to the present time the ruling classes have not preoccupied themselves with the lower classes of the population—a thing which constitutes a grave danger. We are obliged to note this fact and it is necessary to admit it our duty not to put a knife in the hands of children who do not know how to use it. On the contrary, it is necessary for us to repair the errors of the past and to prepare the ground on which the extension of political rights can be made. . . . Can one admit that each person should decide according to his lights the questions touching the public welfare and the general progress? A nation, however attached it may be to liberty, cannot assure its future unless it allows itself to be directed and governed. To abandon the fate of the nation to ignorant masses who know neither how to direct nor how to govern is an insensate thing for which no responsible politician could assume responsibility."⁴

In direct contrast to this point of view was the attitude of Count Apponyi, who warned the National Assembly, out of the maturity of his long experience, of the evils inherent in an antiquated system of suffrage. "Hungary," he said, "is not a nation which can live apart; it forms part of western civilization. All human progress proves that there cannot be too marked divergences between the social organization of the nations which form part of the same community. Thus if Hungary does not wish to be morally isolated, she must not be afraid of following the example of the great occidental nations. It is a grave error and an injustice not to authorize the secret vote. The results of the consultations of the people will always be in error, because many electors will not dare to vote according to their convictions, fearing reprisals on the part of the authorities or of employers' or labor organizations. Oral voting will only envenom political and social conflicts. On the other hand, a method of voting so undemocratic in character is not of a nature to cultivate, in the territories taken away from Hungary, the desire for a return to the mother country."⁵

Count Andrassy, in defending the secret franchise, pointed out that oral voting is permitted only in Soviet Russia and reactionary Hungary, and held that unless adequate protection were given the voter to permit free expression of opinion, all reform would be illusory.⁶ According to

⁴ *Budapesti Hírlap* (governmental), March 25, 1925.

⁵ *Magyarság* (Christian Nationalist), May 15, 1925.

⁶ *Ibid.*, May 21, 1925.

the Socialist deputies, the government bill marked a definite regression of public liberties, as about two million people—mostly transient laborers—would be deprived of the right to vote.⁶ In view of the wide franchise obtaining in neighboring countries, persons of Hungarian origin now outside the territorial confines of post-war Hungary enjoy more political rights than those in Hungary proper. According to Socialist opinion, the single aim behind the government's measure was to assure the dictatorship of one class over the rest of the citizenry and to paralyze the activity of the workers.⁷

Despite the cogent arguments of the Opposition, the bill as finally passed retained the provisions for oral franchise. Praised by the governmental press as "the keystone in the revision of the ancient constitution" and as filling "an enormous lacuna in our constitutional life,"⁸ it was regarded by the Opposition press as of such a character as to deprive the working classes almost entirely of the franchise, and as "the most reactionary electoral law in the world."⁹ Certainly it can once more be stated, as was done by Professor Ogg before the World War, that "the Hungarian franchise remains the most illiberal and the most antiquated in Europe."

Once the reform of the franchise was carried, it was recognized that the reconstruction of the upper house would follow as a matter of course. It was expected that the Second National Assembly, upon the creation of the upper body, would, like the Weimar Assembly in Germany, transform itself into a lower house without seeking a new mandate from the electorate. This permitted the discussion of the nature and rôle of an upper chamber in the light of the reconstruction already effected in regard to the lower.

Naturally, the severance from Hungary proper of the ancestral patrimonies of many Magyar magnates involved a diminution of membership which the former hereditary nobles were hardly willing to accept; hence the members of the old body went to extreme lengths of constitutional hair-splitting in an endeavor to avoid final recognition of Hungary's new frontiers and thus, by implication, to resign themselves to an acceptance of the irretrievable loss of some of the lands of

⁶ This was denied by M. Puky, the government's *rapporteur*, who alleged that sixty-three per cent of the bourgeoisie and fifty per cent of the working classes would be enfranchised, in addition to an indeterminate number of women not previously entitled to vote.

⁷ *Nepszava* (Socialist), May 27, 1925.

⁸ *Budapesti Hirlap*, July 5, 1925.

⁹ *Nepszava*, July 5, 1925.

"millenary" Hungary.¹⁰ From the ultra-legitimist point of view, the permanent reconstruction of the upper chamber likewise encountered difficulties, for here, "according to the ancient constitution of Hungary, the right to legislate belongs in common to the sovereign and to parliament. Thus all reforms of a constitutional character ought to be considered as provisional measures which must be sanctioned by the [legitimate] king to become laws."¹¹ From the point of view of the Bethlen government, however, no obstacle existed to the reconstruction of the old chamber either because of the reduction of the territorial content of Hungary or because of the absence of a reigning sovereign. Hence, accepting existing Hungary as the starting point, the government bill faced political realities and made provision for a distinctly smaller upper house, truncated to approximately the same dimensions as the Chamber of Deputies. In the new constitutional equipoise it would appear that equality in numbers is a cardinal principle of neo-bicameralism.

According to the terms of the government bill,¹² the membership of the Chamber of Magnates will comprise (1) permanent members chosen from among the principal civil and ecclesiastical dignitaries of the country, (2) elected members, and (3) members named for life. The term of elected members will be ten years, half of the membership being renewed quinquennially. The elections will be by cities, counties, and families of the aristocracy, as well as by such legally constituted bodies as chambers of commerce, industry, and agriculture. With a total membership of 242, the number of members chosen from among the

¹⁰ Thus a group of sixty members of the old upper house met in April, 1925, under the leadership of the old presiding officer, Count Wlassics, to examine Count Bethlen's project, and resolved that "Whereas our ancient constitution has always been in force, and whereas in consequence the fundamental principle of this constitution, to wit, that the legislative authority belongs in common to the king and parliament, has never been abolished, the second chamber of our parliament, the Chamber of Magnates, holds that it affirms not only its theoretical but its real existence, so that it may be convoked at any moment. In case the government should deem it necessary to constitute a second chamber, the law should specify that it does not involve the reform of the Chamber of Magnates *en vacante*—that legislative body being the *emanation of integral Hungary*—but the creation of a new upper chamber *rendered necessary by present circumstances* and complementing the Chamber of Deputies, but neither replacing nor continuing the Chamber of Magnates." *Budapesti Hirlap*, May 22, 1925 (italics mine). Such are the constitutional eccentricities of Magyar irredentism!

¹¹ Count Andrássy in *Magyarság*, May 22, 1925.

¹² *Bulletin Périodique de la Presse Hongroise*, No. 88, April 2, 1925.

aristocracy is fixed at thirty-eight, that of delegates of the counties at fifty-nine. There are seventy-five delegates from the municipalities and thirty-six from all the other semi-official bodies. Life members are to be named by the chief of state on the proposal of the cabinet; but their number may not run above forty. According to the foregoing distribution, the initial quota of life members should be thirty-four.

The contrast with the old chamber is striking. In that body the test of membership from among the landed gentry was the payment of a high land tax, despite which sixty-one per cent of the chamber was made up of this class. Over fifteen per cent more were life peers appointed by the crown; another fifteen per cent were ecclesiastical officials; some four per cent were civil dignitaries; and five per cent were Habsburg archdukes. In the new chamber there is a distinct reduction of the ecclesiastical representatives of the Lutheran and Orthodox faiths, while the Croatian diet no longer sends a contingent. The proportion of life peers is almost the same as in the old body, but the rôle of the Habsburg archdukes is now practically inconsequential, only two of that historic family having opted for Hungarian nationality under the peace treaty and otherwise complied with the formalities entitling them to membership. Now the rôle of civil functionaries is outweighed by that to be played by the magnates chosen from economic and semi-official organizations.

The constitutional innovations are of no less importance. These consist, first, in the selection of representative peers from among the hereditary aristocrats of Hungary, in lieu of admitting the former right of all the gentry to sit in the Chamber of Magnates *ex officio*. That change alone has cut the hereditary peers to one fourth their former proportion, or one sixth their absolute number, although many more will undoubtedly avail themselves of their influence to sit as representatives of the county assemblies, which are themselves elected under a reactionary franchise as the present National Assembly. The second important innovation is the heavy representation of the cities, which will have about thirty-one per cent of the members, or more than the life peers and the representative peers combined. If the urban representatives and those of the corporate organizations are able to muster to their side even half of the county magnates, it will mean that a working majority in the new upper chamber will come to rest in conservative bourgeois hands and no longer in those of the peerage.

These changes in the composition of the chamber reveal some outside influences, notably French and British. The representing of the counties

and cities smacks of the famed "general assembly of the communes of France," though it falls far short of the democratic egalitarianism of the French Senate; on the other hand, the selection of representative peers marks the adoption of a salient feature of the Bryce Report. This indiscriminate selectivity has led to sharp criticisms in the nationalist press. We read, for example: "This reform corresponds neither to the exigencies of modern parliamentarism nor to those of the constitutional traditions, respect for which constitutes, in our opinion, one of the sources of national energy. The upper chamber, once reformed, will in effect be a bizarre composite of the British House of Lords, with its noble and ancient traditions, and of the French Senate, composed of parvenus: a compromise between the systems of legislators by birth and by vocation and that of elected legislators, without the sage conservatism of the British lords being tied to the perfect political arts of the Palais du Luxembourg. In effect, besides the members of the royal family constantly resident in Hungary and the delegated members of the aristocracy, the upper chamber will embrace representatives of almost all the classes and groups, intellectual, economic and moral; but the agricultural class, which is the most important nucleus of the Hungarian population, will no more be represented than will the workers, who constitute from a political point of view no negligible quantity."¹³

The arguments in defence of the reform are once again, as in the case of the electoral law, less a vindication of the intrinsic merits of the arrangements arrived at than a justification of the purpose of the measure: to counterbalance the lack of restraint of a popular chamber. From a moderate Liberal standpoint, the reform is conceived "in a democratic spirit without breaking in too violent a manner with ancient traditions in order to accomplish this end. . . . The upper chamber will not hamper a sane evolution and will not bar, as an insurmountable barrier, the way of democracy, but will serve as a counterweight to the too precipitate reforms of the first chamber. By its existence, and probably by its decorum, it will serve to calm the excesses of the party struggle in the Chamber of Deputies."¹⁴

The effort of the government to provide in the law for an equality of powers for the two houses, particularly as regards legislative initiative,¹⁵ has again drawn fire from Count Andrassy, whose point of view could hardly be regarded as radical. In his opinion, the according of too

¹³ *Szozat* (anti-legitimist), March 13, 1925.

¹⁴ *Pester Lloyd*, March 7, 1925.

¹⁵ *Szozat*, March 7, 1925.

greatly extended rights to the Chamber of Magnates will tend to paralyze the activity of the Chamber of Deputies. "It is," he says, "an oligarchic and reactionary reform which cannot even be excused as an opportunist measure. From the legislative point of view, it is absurd to partition powers between two assemblies in such fashion that each may counteract or neutralize the action of the other, without thereby being able to impose its own will. This reform will lead to legislative inertia."¹⁶

It would seem that apart from interested government circles, possessing the necessary political majority to pass the bill, the measure finds few friends. The plea for a conservative upper chamber to curb the impetuosity of the lower house loses its weight in view of the reactionary character of the electoral law for the latter. In the words of a French critic, "in order that the bicameral system may have its *raison d'être*, it is essential that there be a well established and independent popular representation. Above all, it is necessary that the Chamber of Deputies be elected according to a just and democratic franchise."¹⁷ This, as has already been seen, is an impossibility; Hungary has sought to endow herself with two doubly conservative chambers.

What must be the consequence of such "reforms"? Obviously, despite the lip-service paid to an ultimate democratic ideal by their sponsors, the measures will operate anti-democratically and for an appreciable period hinder the development of really free institutions. Both transformations represent the endeavor of the ruling Magyar oligarchy to wipe out every vestige of the liberal traditions of 1848 and 1918. Certainly the liberal forces in Hungary have nothing to gain and nothing to expect from an upper chamber.

MALBONE W. GRAHAM, JR.

University of California, Southern Branch.

The New Japanese Electoral Law.¹ A new statute for the election of members of the House of Representatives was promulgated in Japan on May 5, 1925, and will be applicable in the next general election. It is Japan's fourth electoral law, the previous ones having been promulgated in 1889, 1900, and 1919, respectively. All three of the earlier laws based

¹⁶ *Magyarság* (Christian Nationalist), March 17, 1925.

¹⁷ *Bulletin Périodique de la Presse Hongroise*, No. 88, April 2, 1925.

¹ Published in the Japanese monthly *Kaito* (Tokyo) for May, 1925, pp. 139-54. The writer of this note acknowledges the assistance of a Japanese student in translating the statute. Diet debates are obtainable in the *Japan Chronicle*. Sept., 1924-May, 1925.

the suffrage upon a tax-paying qualification, the first requiring voters to pay fifteen yen in direct national taxes, the second reducing the required tax to a minimum of ten yen, the third decreasing it still further to three yen. The present law abolishes the tax-paying qualification and provides that all males twenty-five years of age and over, who are not otherwise disqualified, and who do not receive "public or private relief or help for a living, on account of poverty," shall be entitled to exercise the suffrage. In addition to paupers and vagabonds, there continue to be excluded from the franchise active members of the army and navy, certain classes of civilian officials, women, and the heads of noble houses. Priests, religious teachers, primary school teachers, government contractors, and certain classes of students hitherto unenfranchised now gain the suffrage and may become candidates for election. Under the law of 1889 the franchise was exercisable by 450,000 men, and under that of 1900 by 983,000; the act of 1919 increased the electorate to 2,860,000; while the present law raises it to an estimated total of 12,000,000.

The new law is divided into thirteen chapters, entitled respectively: (1) voting districts, (2) the franchise, (3) registration, (4) elections and voting places, (5) count of ballots, (6) election meeting, (7) candidates and voters, (8) term, (9) election law suits, (10) canvassing, (11) expenses, (12) penalties, and (13) supplementary regulations.

The electoral districts are altered from small areas, most of which elected but a single representative, to somewhat larger districts each electing from three to five members. The system thus provided is a compromise between the large districts of the 1900 law and the small ones found under both the law of 1889 and that of 1919. The ballot is secret, and each voter is entitled to vote for but one candidate. The candidates receiving the highest number of votes are elected; but for election one must receive at least one fourth of the quotient obtained by dividing the total number of voters in the district by the number of seats to be filled. The names of voters must appear upon registration lists, indicating that the persons have resided within the district for one year prior to the elections. Persons unable to write may not vote. Candidates must reside in the districts which they desire to represent. The age of eligibility for candidacy is maintained at thirty. Each candidate is required to deposit 2,000 yen (\$1,000) as security money, which he forfeits to the state if he fails to obtain one tenth of the above-stated quotient.

The numerical membership of the house (464) and the term (4 years)

were not altered. Korea and Formosa remain unrepresented. Elections must be held within one month of the dissolution of the lower house, the date being fixed in each case by imperial ordinance. Voting is conducted in town halls, schoolhouses, and such other places as may be determined upon by the proper officials. The location of voting places is to be notified publicly five days at least prior to the date of elections. The voting places are to be open from 7 A.M. until 6 P.M. By-elections may not be held unless at least two vacancies occur in the same district.

Election expenses are limited to forty sen (twenty cents) per voter. It is estimated that the candidate is thus allowed to spend approximately 12,000 yen, which seems a large amount, but is small compared to the sums spent in elections hitherto. A candidate may send one letter by mail gratis to each voter in his district. Quite detailed provisions are included under Chapter XI as to the classes and numbers of election agents that may be employed and the methods of determining election expenses. Further regulations may be made by imperial ordinance. The chapter on penalties also is an elaborate one, specifying a number of offences carrying penalties of two to five years imprisonment or fines of 1,000 to 2,000 yen. Among the offences specified are false registration, bribery, obtaining money under false pretenses, promise of favors or offices, false candidacy, kidnapping, disturbance of meetings, voting places, or ballot counting, tampering with ballots, intimidation, and others.

This law, which is spoken of as a manhood suffrage measure, was introduced on January 22, 1925, by the coalition ministry of Viscount Kato, composed of ministers representing the Kenseikai, the Seiyukai, and the Kakushin club. It was brought forward, not because the cabinet thought that the time was opportune for so great an expansion of the electorate, but because popular sentiment for it had become too strong to resist. Differences of opinion existed within the ranks of the government parties, but these were reconciled, as were those which at first divided the cabinet and the privy council, and subsequently those that appeared between the views of the two houses. No considerable discussion was devoted to the main feature of the bill, but the privy council and the peers were both insistent upon the exclusion of peers from the political rights conferred by it; while the Seiyukai was equally determined to break down the exclusive character of the nobility by bringing its members down to sharing the privileges of commoners. Another source of lengthy debate was the question of excluding from the franchise persons unable to support themselves on account of poverty. Members

of the parties in the lower house agreed that poverty was no criterion of intelligence, but the peers and the privy council declined to go the full limit involved in the liberal principle upon which the bill was founded. Both of these issues ultimately were threshed out in conference committee, and the views of the conservative forces prevailed.

An interesting plea made in both houses by opponents of the bill was that of protecting the family system by confining the parliamentary franchise to heads of families, whether male or female. In the House of Representatives the Seiyuhonto, a strong party, sought to filibuster, but was prevented from doing so by personal attacks upon its members by members of the other parties, who did not scruple to hustle them off the rostrum, hurl their papers about, and use other methods of intimidation. The homes of certain peers known to be in opposition were visited by bullies who damaged property and uttered threats of personal violence. In spite of these unfortunate features of the struggle, the debate in both houses did not lack substance and was maintained on an especially high level in the House of Peers. In both the diet and the press, references were made to the intention "to consult widely and to transact state affairs in accordance with public opinion," as expressed in the Emperor Mutsuhito's oath of 1869.

The bill was passed by the House of Representatives on March 2, by the Peers, with amendments, on March 26, and by both houses, after conference, on March 29. While the suffrage bill was under discussion two other bills also were being passed through the required stages of legislation and have been promulgated. One is entitled the "peers reform" bill, by which the membership of the House of Peers is set at 390, half to be of the nobility, half commoners. Of the commoners, 125 are to be named by the emperor, sixty-six to be elected by the highest tax payers and four to be chosen by the Imperial Academy. The other act is the "peace preservation" law, alternatively called the "dangerous thoughts" act. It makes it a felony to discuss, or to be in any way concerned in, any project to change the form of government. The government's own interpretation restricts the concept "form of government" to the sovereignty of the emperor. But it is obvious that so general a phrase leaves a wide way open to other interpretations should occasion demand. It may be noted also that a so-called "Proletarian party," which sprang up while the suffrage law was under discussion, has been denied recognition by the government.

HAROLD S. QUIGLEY.

University of Minnesota.

REPORTS OF ROUND TABLE CONFERENCES

HELD IN CONNECTION WITH ANNUAL MEETING OF THE AMERICAN
POLITICAL SCIENCE ASSOCIATION AT NEW YORK,
DECEMBER 28-30, 1925

1. COMPARATIVE GOVERNMENT

At the suggestion of the chairman, Professor Walter J. Shepard, the round table gave its attention to recent developments in European governments and politics. Brief reports were made upon a number of countries, followed by discussion. Professor Kenneth Colegrove, of Northwestern University, began these reports with an account of the movement for the reform of the British House of Lords, showing that the Labour party is on record for the total abolition of the upper chamber whereas the reactionary wing of the Conservative party urgently demands reorganization and enlargement of powers. The urgency of the reactionaries is due to fear of socialistic legislation by some future Labour government. Under the Parliament Act of 1911, money bills may become law without the Lords' consent, while bills other than money bills may be delayed only two years. To satisfy the reactionaries, reform must include the strengthening of the membership of the House of Lords by introducing the elective principle and by modification of the relations of the two houses. The Bryce Report of 1917 proposed an ingenious plan for a financial joint committee to rule upon money bills or money clauses, and a conference committee to adjust differences between the two houses regarding non-financial bills. The proposals of the coalition government in 1922 were never adequately discussed. In 1925 it was reported that Lord Birkenhead intended to offer a solution which the Baldwin government would support; and last October the National Conservative Conference tried to force the subject upon the prime minister. But Mr. Baldwin is not enthusiastic. He knows that the man on the street is not interested in dropping the hereditary lords or in creating a strong chamber.

Professor Robert C. Brooks, of Swarthmore College, called attention to three outstanding events in the recent politics of Switzerland. In 1918, by initiative vote, the Swiss people adopted proportional representation for the election of the National Council. In 1920, Switzerland was the

only nation taking a referendum on the question of joining the League of Nations, the cantons dividing $11\frac{1}{2}$ for the affirmative and $10\frac{1}{2}$ for the negative. And in 1922 an initiative proposal for the capital levy was overwhelmingly defeated. Referring to the general election of October 25, 1925, for the National Council, the speaker indicated that there had been a slight shift to the Left. In regard to recent observations upon political methods in France, Professor Brooks reserved his remarks for the Political Science Association luncheon on Monday, at which time he talked upon election campaign tactics, discussing in particular the use of *affiches électorales* and the conduct of public meetings.

Professor Elmer D. Graper, of the University of Pittsburgh, reviewed the German election of December, 1924, which failed to break the deadlock between the parties of the Right and the Left, but ultimately led to the inclusion of the Nationalists in the cabinet. This was just what Stresemann, leader of the People's party, had long advocated. To carry out his foreign policy, Stresemann had found it necessary to coöperate with the parties of the Left. But after the acceptance of the Dawes Plan, the leader of the party of the great industrialists turned toward the Nationalists rather than continue his dependence upon the Social Democrats. This new affiliation has been shaken by the recent resignation of the Nationalist ministers when their party disapproved the Locarno pacts. Reviewing the presidential election, Professor Graper sketched the inter-party negotiations leading to the selection of General von Hindenburg in place of Dr. Jarres as candidate of the Right, as well as the reasons why the parties of the Left entered the first contest with separate candidates. Events subsequent to the election have shown the error in the slogan of the followers of Dr. Marx that the issue was "republic versus monarchy."

Professor Malbone W. Graham, Jr., of the University of California, Southern Branch, reviewed the political and constitutional developments in the succession states of the Dual Monarchy during 1925. In Austria, the constitutional repercussions of the financial program of the League of Nations necessitated amendments to the constitution of 1920 giving the central government final control over provincial expenditure. At the same time, the movement for union with Germany has had influence upon the political situation in Austria. In Hungary, two constitutional problems have claimed attention, namely, the electoral law of 1925 and Count Bethlen's proposal for reconstruction of the House of Magnates. The Hungarian premier proposed that the upper chamber should retain co-equal powers with the lower house, while the membership should

include representative peers, members from the county assemblies, delegates from the municipalities, and a small number of life members appointed by the government. This scheme has been described as a hybrid between the French Senate and the British House of Lords, without having the commendable features of either of them. In Czechoslovakia, the election of November, 1925, indicated a tendency of parties to split up into a multitude of small fragments. Even the Germans were hopelessly divided. In Jugoslavia, the election of February resulted in almost a draw between the parties supporting centralization and those standing for autonomous Slovenia, Croatia, Bosnia, and Herzegovina. Fortunately, Premier Pasic came to terms with Radic, the agrarian leader of Croatia, with the result that Pasic remains in office. In the Balkans, the struggle of the agrarian parties against the program of the Tsarist party in Rumania and its counterpart in Bulgaria offered some interesting constitutional developments.

Professor Edith C. Bramhall, of Colorado College, reported on the organization and purpose of the National Economic Council of France, which was set up by M. Herriot a few days before the fall of his cabinet in 1925 and which he is said to consider the most important constitutional contribution of his ministry. The question of economic councils, or industrial parliaments as they are sometimes called, is bound up with the larger question of functional representation. They are also viewed as an attempt to get experts to contribute constructive criticism on current problems of government and thus save democracy from failure.

Professor Walter J. Shepard, of the Robert Brookings Graduate School, presented the substance of a paper by Professor Corrado Gini, of the University of Padua, on the "Scientific Basis of Fascism." Professor Gini was a member of the commission appointed by the Italian government to prepare a plan for the reorganization of the representative system, and he is the reputed author of the scheme for functional representation in the Senate which was officially adopted. His defense of fascism was as follows: The postulate of rule by the majority may well serve as the democratic maxim in normal times. But in emergencies, when a great ideal must be effected, it is sometimes impossible to obtain a majority. Then the assumption of universal suffrage must give way to a concentration of political authority; for the state, after all, rests on force. Fascism came to the front in Italy under exceptional circumstances and under an exceptional man.

On the third day, before adjourning, the round table adopted a resolution requesting the program committee of the Political Science

Association to continue the round table on comparative government next year and suggesting that reports on dictatorships and functional representation be made. Forty-five members attended the various sessions.

KENNETH COLGROVE, *Secretary.*

Northwestern University.

2. POLITICAL PARTIES

The round table on political parties, led by Professor P. Orman Ray, of Northwestern University, held three interesting and profitable sessions, during which as many topics of importance to students of politics were discussed.

The first meeting was devoted to a consideration of party finance. The writer of this report presented certain phases of the subject, emphasizing especially the federal laws relating to campaign funds. The history of federal legislation on the subject was mentioned, and the present federal law, known as the federal corrupt practices act of 1925, was examined in some detail. The inadequacies of this law were pointed out, and several suggestions for its improvement were discussed from the legal as well as from the practical point of view. The discussion which followed covered a wide field. Questions were raised as to the effectiveness of state laws relating to campaign funds, and as to the sources of campaign funds—whether limiting provisions in state laws really limit; whether corporations still contribute; and many others.

The second meeting was the occasion for a discussion of the direct primary and the presidential primary. The discussion was led by Professor O. C. Hormell, of Bowdoin College, Miss Louise Overacker, of Wellesley College, and Professor R. S. Boots, of the University of Nebraska. Professor Hormell presented some recently collected material showing the expense of the direct primary in Maine, both to the state and to the candidates. His figures were very illuminating, especially those demonstrating the modest sums expended by the various candidates in running for nominations. Miss Overacker gave the round table the benefit of her recent studies of the presidential primary, pointing out existing defects and discussing proposed remedies. Dr. Boots emphasized the importance of securing data which would indicate whether or not the direct primary had actually given to the rank and file of the voters the control of nominations, or whether this control still rests with the same people who controlled nominations under the convention.

system. To him, this matter seemed of the greatest importance, and such matters as the expense of the primary only of minor importance.

At the third meeting the problem of party responsibility was considered. Professor W. S. Carpenter, of Princeton University, introduced one phase of the subject dealing with responsible leadership within the party. He raised questions about how party discipline can be preserved and how the party can keep itself from being overrun and controlled by elements really foreign to the bulk of the party membership. The question of party affiliation tests came in for a good deal of comment. The second part of the discussion was led by Professor R. J. Swenson, of New York University, who directed his remarks to the problem of the responsibility of the party to the electorate. He pointed out why the party cannot be held wholly responsible for the conduct of affairs under our governmental system, and, with a view to meeting the defects of our present constitutional system which militate against the development of a genuine party responsibility, he proposed a plan which evoked warm discussion.

J. K. POLLOCK, JR., *Secretary.*

University of Michigan.

3. MUNICIPAL ADMINISTRATION

The discussion of the round table in municipal administration revolved about three matters—first, the progress report based upon the recommendations of the round table in municipal administration of the summer conference; second, a consideration of the interrelation of local educational administration and the administration of other municipal services; and, third, a criticism of statistical methods which have been applied by students of public administration, especially in the fields of local finance and educational finance.

Progress Report. The progress report based upon the recommendations of the round table in municipal administration of the summer conference was a detailed description of a survey of the organization and financial administration of the borough government of Glen Ridge, New Jersey. The effort was made in this survey to apply the more important recommendations of the summer conference round table, particularly with reference to the statement of principles and criteria of judgment which were applied by the research staff in this particular study. This section of the report is as follows:

"Principles of Good Organization. The experience of American communities with their local government has been subject to careful exam-

ination during the past twenty years. Though there is still much to be done, it is generally conceded that the investigations which have been carried on by our state commissions, leagues of cities, civic groups, specialists in administration, and bureaus of municipal research are, in their purpose and results, practical, businesslike, and scientific. It is a striking fact that these investigations of government have brought about a pronounced change in American thinking on the subject of governmental organization.

"As a result of the early struggle of this country, the following ideas were developed and handed down through successive generations: (1) we should have many elective officials; (2) frequent elections are essential; (3) the only safeguard of representative government is a system of checks and balances; (4) many heads are better than one; (5) overlapping terms of office, which prevent a political housecleaning at a single election, are a guarantee of good government; (6) a new and independent agency should be created whenever the government undertakes a new task; and (7) almost anyone is competent to hold almost any governmental position.

"Other ideas may be mentioned, but these are certainly among the more important principles of government, if they may be called such, which have been in the minds of citizens, legislators, and charter committees up to a recent period in our history.

"The effect of experience, however, especially since the Civil War, and the practical investigation of the business of city governments, have led us to question the application which has been made of some of these principles, and to amend these ideas in a measure. We have come to see that we do not automatically produce good government, nor democratic government, through the election of many officials or the creation of independent agencies. We have found that frequent elections are not the method whereby we achieve automatically either effective government or democratic government. Even in the state of Massachusetts, where Adams said 'Where annual elections end, tyranny begins,' annual elections of city and state officials have been abandoned. We have become convinced that there are too many checks and balances; that overlapping terms thwart democracy; that we have more brakes than driving power. We have come to see that in *administrative work* it is the one man, the one responsible man with energy, that we want, rather than a group of men. We have discovered that perhaps, after all, we must have experienced men to handle the more important executive

and technical work of government, and that not every man is competent to fill every office.

"And so the twentieth century revision of these ideas, these principles of government, may be stated in some such form as the following: (1) Related work must be administered as a unit. You cannot split up work that belongs together and get good government. (2) Each unit of administrative work must be placed under a single responsible official, selected because of his proved ability, experience, and technical knowledge, and equipped with adequate power and staff. (3) Popular election does not, except by accident, result in the selection of such men. (4) In order to guarantee that the various departments will operate together smoothly, and to prevent unbalanced expansion of some departments in comparison with others, all of the administrative work should be headed up under a single chief executive with power to control his subordinates. It is the duty of the chief executive also to see that the work of government is carried on in accordance with the desires of the people. He should, therefore, be selected directly by the voters or by their representatives and held strictly accountable. (5) Boards, commissions, or committees should not be used for administrative work. They are generally ineffective unless one member takes the responsibility for the work. Boards divide authority and diffuse responsibility. *Ex officio* boards have even less to commend them. But where there are quasi-judicial or quasi-legislative functions within a department, a board may well be attached to the department to perform these functions or to serve in an advisory capacity. (6) The governmental organization should be made as simple as possible, and the ballot short, not only for the sake of efficient administration, but in order that the citizens may understand and therefore really control their government.

"It is a striking fact that these principles of organization represent the conclusions of many qualified individuals in different parts of the world who have come at these same problems from different points of view. They are further fortified by the fact that they are in thorough harmony with the principles of private business."

There was, in the round table, not a little difference of opinion with regard to certain of the "principles" in the above statement, particularly in regard to the place of boards in municipal administration. Professor S. Gale Lowrie, of the University of Cincinnati, and Dr. Lent D. Upson, of the Detroit Bureau of Governmental Research, took the position that independent boards are necessary under certain conditions as a means of securing continuity of administration. It was their belief also that

practical experience does not demonstrate the failure of the board system to produce a fairly balanced community program. Professor Woodhouse and Dr. Carl E. McCombs took direct issue with this point of view, not alone on the basis of theory but on the basis of practical experience. The discussion of the Cincinnati situation was particularly illuminating because three members of Dr. Upson's survey staff were members of the round table, and because they were not in complete agreement as to the results of board administration in Cincinnati.

Relation of City Governments and Schools. The relation of municipal administration and municipal public school administration was the second major topic discussed. During this part of the conference Professor James McGauhy, of Teachers College, Columbia University, sat as a member of the round table. A large part of the discussion dealt with practical situations in cities which were well known to individual members of the group. During the preliminary stages of the argument, the issue was sharply drawn between those who believed in complete independence of local school systems and those who believed in placing the school administration directly under the city government, some members even going so far as to urge the creation of a department of education with a single commissioner. During this part of the deliberations the director presented a summary of the developments of English municipal services. In this report attention was directed to the fact brought out by the Webbs that modern municipal services were developed through independent special bodies, and that their amalgamation to form a unified municipal government did not take place in most instances until the first third of the nineteenth century. On the basis of this historical summary, the question was raised as to whether independent units of administration are not inevitable during the early and transition stages of any governmental service. Various members of the round table brought forward further evidence drawn from present-day situations in American municipalities pointing toward the same conclusion.

Criticism of Statistical Methods. A very important phase of the discussion centered about a special report by Dr. Arne Fisher, of the statistical division of the Western Union Telegraph Company. Dr. Fisher called attention to the limitations of statistical devices, such as ratios, averages, correlations, and computations of probable error. The round table is much indebted to his keen, scholarly, and humorous handling of the topic assigned him. The youthful enthusiasm of social

science statisticians received a much needed jolt at the hands of this distinguished mathematician.

LUTHER GULICK, *Chairman.*

National Institute of Public Administration.

4. PUBLIC OPINION

Although first to bear the title the round table on public opinion was a natural heir to the discussions of the four previous round tables on politics and psychology and the two previous round tables on political statistics. The chairman opened the sessions with a general review of the work of these previous conferences and suggested a logical division of topics for the three days' discussion. Although not strictly maintained in chronological sequence, this division may be used here for convenience in summarizing the work of the round table.

Agencies and Methods of Propaganda. Professor Harry A. Barth, of the University of Oklahoma, presented an analysis of several examples of successful political persuasion and from them derived ten rules for propaganda: (1) the use of stock words and phrases; (2) the use of stock arguments, as, for example, "this is beautiful in theory but unworkable in practice"; (3) the use of false analogies; (4) the appeal to fundamental instincts, for example, the protective tariff as related to the full dinner pail; (5) appeal to taboos; (6) falsifying of facts; (7) careful selection of the facts; (8) creation of certain complexes; (9) use of the best *post hoc ergo propter hoc*; and (10) use of personification. Stress was laid on the non-rational character of all political education and the small amount of time and interest for political matters exhibited by the contemporary voter in comparison with the attractive competing uses for his leisure time. The question was raised whether this particular type of analysis might better be carried on by the psychologist, leaving the analysis of institutions to the political student.

Mr. P. Odegard, of Columbia University, described in detail the various types of propaganda and campaigning carried on by the competing organizations in the long fight for prohibition, noting especially the non-rational character of appeals both *pro* and *con*, especially the prevalence of the appeal to fear and the use of Machiavellian methods on both sides.

The chairman proposed that study should be undertaken to determine the success of the more rational appeals in campaigns, such as the device used by non-partisan organizations of publishing the records of all

candidates. Informal observations were given, showing that such methods had not been very effective.

It was suggested that the study of propaganda might fruitfully be directed to an examination of the major groups or organizations in modern society which engage actively in propaganda work. Note was made of the complexity of such analysis, especially if it should attempt to include the structure and functioning of the many ephemeral organizations in this field. The suggestion made at a previous round table by Professor Elliott, of Harvard, that an analysis of the solidarity of opinion, extent of membership, and power of the various political interest groups such as trade unions, religious groups, etc., might be an informing method of studying the formation and expression of public opinion on specific political issues, was renewed.

It was pointed out that the analysis of public opinion by describing the methods and agencies of propaganda is in danger of assuming that the voter is entirely malleable and that propaganda adequately explains decisions at the polls. In this connection, Professor O. Garfield Jones, of Toledo University, indicated that in a recent municipal bond election apparently powerful and strongly financed propaganda for the bonds evidently over-reached itself and met defeat at the election. The question was raised on several occasions during the three days' discussion, but not answered, as to how the real effectiveness of propaganda methods, both in the legislative lobby and during campaigns, could be measured or otherwise determined. There was, however, more or less general agreement that the borders of descriptive government might well be enlarged to include an analysis of the major propaganda groups and their methods.

Analysis of Election Results. The chairman suggested the possibility of building up for states and localities an equivalent of the endemic index used by health officers as a means of indicating unusual current disease prevalence. Records of election results for a particular geographic area for a considerable period of years could be consolidated into indices of normal tendency regarding voting percentages, party majorities, and with regard to classified subjects of direct legislation. With this as a basis, current election returns could be more accurately analyzed, the shifts of opinion localized and related to environmental and social data. By the use of such a voting index it might also be possible to gauge roughly the effectiveness of certain methods of campaigning where such methods were applied in certain localities and not in others.

The general possibilities of analyzing the results of voting upon measures were discussed. It was pointed out that at the present time there is both incompleteness and duplication in the collection of initiative and referendum returns. A first step in the study of direct legislation is, therefore, the securing of more complete and accurate data on a nationwide basis for the use of students in the field of public opinion.

Professor O. Garfield Jones gave an informal account of an investigation carried on under his direction by students in connection with the recent Toledo bond election. Precincts were used as the basis for analysis, and personal visitation was a part of the method of investigation. Incomplete results reveal some interesting features. The experiment indicates the importance of analyzing votes on measures in detail, and especially of using precincts or voting districts rather than larger areas.

Analysis of Leaders and Official Representatives. Professor J. M. Gaus, of the University of Minnesota, proposed a biographical analysis of the official leaders of the political interest groups, in order to determine the sources of opinion not only of the leaders but of the groups which they lead. Objection was raised that, due to difference of mental status and experience, leaders might not be representative of the opinions of their followers.

Professor Ben A. Arneson, of Ohio Wesleyan University, gave the results of an analysis of the issues in the state party platforms of 1924. While it was not claimed that these platforms represented an active expression of organized opinion among party members, they were to be regarded as representing the shrewd guesses of experienced party leaders as to what was pleasing in the eyes of the public.

Such studies as that of party platforms or legislative leaders, or that by Rice of legislative roll calls, all assume rather than prove that representatives actually represent their constituencies. The query was made as to whether some examination of an objective nature might be made of this assumption. It was suggested by the chairman that an analysis of the vote of legislators upon an indirect initiative measure or legislative referendum might be compared with the popular vote by constituencies when the same issue was later referred to popular vote. Evidently no such studies have been made.

Analysis of the Opinions of Individuals and their Sources. The third session was devoted mainly to a review of the Allport-Hartman Syracuse study of atypical opinion on selected political issues. Professor Hartman reported that further tests seemed to fortify the tentative conclusion that the minority at the extreme right and extreme left on a number

of issues tend to be more alike in traits of personality than either group in comparison with the moderate majority on the same issues.

Professor A. B. Hall described the test of non-rational opinions now being developed at the University of Wisconsin. The test is to be used primarily as a means of determining the actual efforts of school training and of various environmental influences in producing rational habits of political thought. There was considerable discussion of the methods of framing political intelligence and political information tests, as well as their possible usefulness.

The round table had a total enrollment of forty members and an average attendance of over thirty. The group was fortunate in having among the active participants in its discussions several psychologist-statisticians, sociologist-statisticians, and professional political workers, as well as a nucleus of students of government who had attended some of the previous round tables on the same subject.

ROBERT D. LEIGH, *Chairman.*

Williams College.

5. PUBLIC FINANCE

The round table on public finance, devoting its attention at this meeting to the subject of state supervision of local finance, held sessions on Tuesday and Wednesday, December 29 and 30. Professor John A. Fairlie, of the University of Illinois, presided. Twenty persons enrolled as participants and auditors. The method adopted was to set before the group particular forms of control in actual operation in various states. It was hoped that facts and criticisms thus brought out might furnish a basis for some comparative evaluation of the systems and lead, perhaps, at a future meeting to constructive proposals.

Central financial supervision of local areas in Massachusetts was discussed by Professor Lane W. Lancaster, of Wesleyan University. Administrative control of local finance in Massachusetts includes debt supervision, advice to the legislative committee on municipal finance, installing accounting systems, and auditing accounts. Local debts for certain purposes are to be incurred only within a statutory limit, but debts for other specified purposes, and all debts created under special legislation, are not affected by the debt limit. Supervision of indebtedness is exercised through the director of accounts in the department of corporations and taxation. Evidences of indebtedness are in two forms—bonds and serial notes. Bonds are outside the purview of the director of accounts, but serial notes must be certified by him before acquiring

validity. At the present time, serial notes comprise less than fifteen per cent of all local obligations. Before certifying notes, the director must see that the loan is legally authorized and that it complies with all formalities prescribed by law.

Indirect control is exercised over loans made under special legislation, through the practice of the legislative committee on municipal finance of recommending such legislation only upon the recommendation of the director of accounts.

Besides the functions of certifying notes and advising the legislative committee, the director is authorized, on request of the municipality, to install a uniform system of accounting. This has now been done in a large proportion of the cities and towns. Auditing of local accounts was until recently optional with the municipality, but is now compulsory. In addition to these measures of control, the division of accounts compiles valuable financial statistics of municipalities.

Professor Frank G. Bates, of Indiana University, presented a description of the system of state control of local finance in that state through the agency of the state tax commission and the department of inspection and supervision of public offices. This was an elaboration of a report made by him to the Conference on the Science of Politics at its New York meeting and is printed elsewhere in this number of the REVIEW.¹

On the second morning Mr. Wylie Kirkpatrick, of the Robert Brookings School, discussed state supervision of assessment and taxation in New York and New Jersey. In New York, under the law as revised in 1915, the power of revising valuations is vested in a state board which may equalize the assessments within the county but may not exceed the total of the county assessment. In New Jersey the county tax board appointed by the governor exercises similar, but more extensive, powers of control. Questions of fact are decided finally by the board, only questions of law going before the courts. Experience in New Jersey leads to the conclusion that if the sales method of evaluating property for taxation is to be employed, its use should be restricted to purposes of original assessment and not of state revision. A trend of opinion was indicated among taxing officials toward giving greater consideration to earning power as a basis of evaluation. Mr. Kirkpatrick suggested a wider extension of the system of classification of property, to the extent of recognizing different classes of realty.

¹ See pp. 352-360.

Professor C. A. Hallenbeck, of the Municipal University of Akron, presented a brief description of the system of control of municipal accounting exercised through the bureau of inspection and supervision of public offices of Ohio. It is the duty of that bureau to inspect the accounts of all municipal and school corporations, and to prescribe forms of accounts and reports. The duty of the inspectors is to investigate the financial transactions of all political subdivisions of the state and of institutions receiving or disbursing state funds.

The paramount object is to instruct officials as to the laws governing their duties and as to good business methods. Examinations of accounts are made periodically, and at other times upon request of taxpayers. Uniform systems of accounting are prescribed. Special counsel is provided in the office of the attorney-general for the prosecution of delinquent officials and the recovery of misappropriated funds. An engineer is attached to the bureau whose duty it is to inspect work in progress under public contracts whenever irregularities are suspected. The costs of inspection are borne by the municipality or institution inspected. Mr. Hallenbeck reported that, while these measures have had preventive value and large recoveries of funds have been made, there are still many cases of irregularity.

Professor Ivan L. Pollock, of the State University of Iowa, reported upon the measures of control over local finance embodied in the recently enacted budget law of that state. This act exerts control over local finance at four points. First, local governmental areas are required to prepare and adopt a budget after public hearing, with opportunity for protests before the tax levy for the year is made. Second, the supervision exercised by the director of the budget through the state accountant is somewhat broad and extends to local officials in so far as they expend or receive state funds. It is the duty of the accountant to audit the accounts of such officers; to report on the general condition of the office; to report whether funds have been expended lawfully, whether there are unnecessary duplications of effort, and whether efficiency and economy of operation are secured. Third, public notice must be given of every contract for improvements involving more than \$5,000, and an opportunity given for a hearing on objections. An appeal may be taken from the local authority to the director of the budget. If he finds that the contract should not be awarded he may require that the contract be modified to protect the interests of the tax-payers. After a contract has been performed any five citizens may request an investigation. If the director of the budget finds that the terms of the contract have not

been carried out, the contracting authority must institute legal proceedings on the contractor's bond. Fourth, if a municipality proposes to issue bonds when a referendum is not required by law, appeal may be had by citizens to the director of the budget. After a hearing, the officer renders a decision upon the propriety of the issue.

The discussions at the round table brought out a general agreement that state activity may justifiably extend to the collection and publication of financial statistics and to insistence upon an honest administration according to forms and methods prescribed by law. Doubt was expressed, however, by several of those participating in the discussion whether the state is justified in attempting to exert its authority in an attempt to secure "good government" through control of local policy.

FRANK G. BATES, *Secretary.*

Indiana University.

6. ORIENTATION COURSES

In view of the interest in orientation courses which was stimulated by three papers presented at one of the general sessions of the Association, a round table was organized for the purpose of giving the members who were interested in this problem an opportunity to exchange views. The discussion naturally hinged on the three types of courses which had been presented in the general meeting.

The first type is of the most inclusive sort, comprehending the whole field of human knowledge and experience. As some of the members of the round table were of the opinion that a general orientation course of this sort is not closely related to the work of political scientists, it was thought well to postpone discussion of it; indeed, a limited number questioned whether any time whatever ought to be devoted to it.

The second type deals generally with the social sciences. On the one hand, the dominant purpose of this type may be said to be to acquaint students in an introductory way with the content and principles of the sociological, economic, and political sciences. On the other hand, the objective may be to develop insight into social phenomena looking toward the development of a more effective citizenship. It was brought out incidentally during the discussion of the second group of courses that as yet "effective citizenship" is undefined, and that this constitutes a major problem for those interested in a course having citizenship as a major goal.

The third type grows out of a more formal treatment of government. In this, three possible subdivisions were mentioned. The first deals with

political theory and uses governmental machinery as illustrative material. The second treats of comparative governments, the government of the United States being discussed in connection with the governments of the major nations of the world. The third concentrates on the government of the United States. In giving this sort of course, instructors in political science seem to have divided themselves into two groups: the older group of men, of whom many have been trained in law schools, approach government more from the legalistic and descriptive angle. The essence of the advice of one of these men was, for instance, "study the constitution of the United States." The younger men, who have been trained in history, economics, sociology, and psychology, are giving up this approach and aiming to look at government as a vital and ever-changing institution. Their tendency is toward the social science orientation course, but they still maintain the necessity of using government as a starting point. As to method, they seek to analyze and explain rather than to describe.

Two prepared reports were presented to the members of the round table. One consisted of a summary of returns from questionnaires on freshman orientation courses that had been forwarded to somewhat over 125 colleges and universities by Professor Charles McKinley, of Syracuse University. About ninety colleges replied, of which fifty-nine reported no such courses. The colleges giving data are a rather representative group, both as to geographical location and as to size and character. The largest number, thirteen, report that the purpose of their course is to arouse interest in citizenship; seven wish to introduce students to contemporary civilization; three to pave the way for the study of advanced courses in the social science field; and three to introduce students to the liberal arts curriculum, or to the whole field of human knowledge and experience. The various objectives are classified in a separate section of the report in greater detail. Mr. McKinley also summarized the methods of instruction used in the various colleges and the objective tests that have been devised to measure results. He concluded with a summary of the value of the course as it appears to the instructors.

The second paper was presented by Professor O. Garfield Jones, of Toledo University. He dealt with the laboratory methods that have been adopted in his institution for acquainting the students with what he calls "effective municipal citizenship." Professor Jones' paper outlined the way in which he uses the various precincts of the city for observation purposes and by which he stimulates the students to follow

the campaign and election through all of the various stages. A second feature of the scheme for laboratory experience is in connection with a survey and report on the administration of the hundred or more units in the city government. The third method has to do with a charter convention in which the students participate by proposing and working for amendments to the city charter. This gives them an opportunity to develop the leadership necessary in a deliberative assembly. Professor Jones justified his work on two counts: (1) that only through first-hand contacts of this sort can the students rectify their mental pictures about government in operation, and (2) that citizenship is *doing*, and in the training process one should get an understanding of how things are actually done.

Out of these reports, as well as out of suggestions of members of the round-table, a rather far-flung discussion developed that, taken all together, indicated how complex a problem was being opened up. It was felt that a clear picture of the whole problem could not be given without careful and systematic investigation; further, that a great deal of experimentation is being done along lines of content, methods, and testing which would be useful to others if the facts were brought together.

At the close of the sessions the members voted unanimously to continue the meetings next year. They recommended further that a definite program should be framed which would provide for reports on courses where actual pioneer work has been successful. It was also urged that these reports should be mimeographed and circulated so that questions might be raised and full discussion provoked.

W. E. MOSHER, *Chairman.*

Syracuse University.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

By vote of the Executive Council, the next annual meeting of the American Political Science Association will be held at St. Louis during the last week of December. The American Economic Association and the American Sociological Society will be in session at the same time and place. The program committee of the Political Science Association consists of Professors Francis W. Coker, chairman, William Anderson, R. E. Cushman, A. B. Hall, and A. N. Holcombe.

Professor Edward S. Corwin, of Princeton University, will be visiting professor at Stanford University during the summer quarter and will offer courses in the principles of politics and the history of American political and constitutional theory.

Mr. Victor Hunt Harding, of Stanford University, has been appointed instructor in political science at the University of California, Southern Branch.

Mr. Robert Littler, of Stanford University, has been acting as instructor at the University of Hawaii during the present year, giving courses in international relations, English constitutional history, and practical politics.

Professor John M. Mathews, of the University of Illinois, will give courses in American state government and constitutional law in the summer session of Ohio State University.

Dr. William Y. Elliott, formerly of the University of California, has been appointed assistant professor of government in Harvard University.

Professor Quincy Wright returned to the University of Chicago in January, after five months of travel and study in the Near East.

Mr. Jerome G. Kerwin, of the University of Chicago, has completed a survey of civic agencies as a part of the program of the University of Chicago local community research committee in coöperation with the Union League Club.

Dr. James Hart, of the University of Michigan, has been appointed associate in political science at Johns Hopkins University.

Professor Waldo Schumacher, of Grinnell College, has been appointed assistant professor of political science at the University of Oklahoma. Mr. Cortez Ewing, assistant at the University of Wisconsin, and Mr. John G. Hervey, assistant at the University of Pennsylvania, will teach at Oklahoma in the summer session.

Dr. William S. Carpenter has been promoted from assistant professor of politics to associate professor at Princeton University; and Dr. H. W. Dodds, at present half-time lecturer in politics, has been made associate professor.

The organization of an institute of inter-American relations at the University of Porto Rico was announced in March by a newly appointed commission for the United States, representing the institute. The purpose of the institute was explained to be "to effect better relations among North, South, and Central America;" and the organization was planned on the models of the Institute of Politics at Williamstown and the Pan Pacific Institute at Honolulu. It is intended to hold annual sessions, the first being scheduled for September 15 to 22, at the University of Porto Rico, at Rio Piedras. Members of the commission for the United States include President Nicholas M. Butler and Professor Samuel M. Lindsay, of Columbia University, Dr. Albert Shaw, of New York City, and Mr. Felix Cordova Davila, resident commissioner of Porto Rico in this country.

Among the grants in aid of research made in March by the American Council of Learned Societies were those to Professor V. J. West, of Stanford University, for study of the use of money in elections, Professor Stuart A. Rice, of Dartmouth College, for study of the technique of measuring public opinion, and Professor Waldo Schumacher, of Grinnell College, for study of the direct primary in its relation to tenure of office.

Dr. Miller McClintock, of the University of California, Southern Branch, has been appointed director of a recently established bureau of street traffic research in Los Angeles. The bureau is located at the University, and Dr. McClintock has been granted leave of absence to devote his time to its activities. A special fund has been given to carry on the work for several years. In connection with the activities of the bureau, Dr. McClintock is engaged in directing a metropolitan traffic survey for the city of Chicago, under the auspices of the Chicago Association of Commerce.

Mr. Caleder Crosser, who has been editor of the Toledo City Journal and secretary of the Toledo commission of publicity and efficiency, has gone to the research bureau of Des Moines, Iowa. Mr. Virgil Sheppard, formerly instructor in municipal science at Toledo University, has succeeded Mr. Crosser in the editorship of the Toledo City Journal, and Mr. J. Otis Garber, recently assistant at the University of Michigan, has been made instructor in municipal science at Toledo University. He will have charge of the municipal administration and municipal research work of the department, and will assist Dr. O. C. Jones with the beginning course in effective municipal citizenship.

A Kentucky academy of social sciences was organized in January, composed of teachers and investigators in the fields of history, political science, economics, and sociology. This is the first association of the kind to be attempted in the state.

The American Council of Learned Societies has created a committee to coöperate with committees of the National Research Council and the American Library Association in developing plans for the preparation of a comprehensive bibliography of serial publications of foreign governments. The committee consists of Professor Frederic A. Ogg, University of Wisconsin, chairman, Miss Adelaide Hasse and Dr. C. E. McGuire, Institute of Economics, Washington, and Dr. Denys P. Myers, World Peace Foundation, Boston.

Yale University has completed arrangements for courses preparatory to the United States foreign service. The schedule for 1926-27 includes courses in international law, international relations, foreign trade, commercial policy, economic geography, comparative politics, political institutions, diplomatic history, and technical studies in accounting, administration, and admiralty law. Graduate students may allocate their work so as to fulfill the requirements for the M.A. degree in political science or in economics. The faculty includes Professors Edgar S. Furniss and Norman Sydney Buck and Dr. Nicholas J. Spykman.

The thirtieth annual meeting of the American Academy of Political and Social Science was held at the Bellevue-Stratford Hotel, Philadelphia, on May 14-15. The general topic for consideration was the United States in relation to the European situation, and among the special subjects discussed were: the present situation in Germany and France; the effect of the debt situation upon Europe's relations with the United States; the World Court, the Locarno pacts, and European

security; the foreign investment policy of the United States; the United States and Russia; and disarmament and the present outlook for peace.

The twentieth annual meeting of the American Society of International Law was held at Washington on April 22-24. The subject chiefly under consideration was the codification of international law. The progress of codification under the auspices of the Pan-American Union was discussed by Dr. Antonio S. de Bustamante, and progress under the auspices of the League of Nations by Hon. George W. Wickesham. A round table conference on the function and scope of codification was led by Professor Jesse S. Reeves, of the University of Michigan, and another on codification in respect to nationality by Professor Ellery C. Stowell, of the American University.

The fourth session of the Academy of International Law at The Hague, founded with the support of the Carnegie Endowment for International Peace, will extend from July 6 to August 27, with division into two periods of approximately four weeks each. During each of the periods fundamental courses will be given on the historical development and general principles of international law, both public and private, while a certain number of special lectures will be devoted to carefully defined subjects, selected according to special competence of instructors and, as far as possible, from the juridical problems that are of international interest at the present time.

The Geneva School of International Studies, Dr. Alfred Zimmern, director, opens on July 12 and continues through September 4. The regular courses are in fortnightly units, although, to accommodate persons who cannot stay two weeks, special weekly courses are offered. The subjects include international politics in its broadest sense—law, economics and political problems—together with studies of various international cultures. The lecturers are distinguished statesmen, educators, and experts in international fields. Group discussions are an important feature of the program. In September, the school's activities are arranged to fit in with the sessions of the Assembly of the League of Nations. The courses were attended last summer by more than 500 students, representing forty-four different countries.

The Carnegie Endowment for International Peace will send a party of about fifty teachers of international law and relations to Europe during the coming summer. The sailing date is July 28 and the return date September 20. Brief visits will be paid to Paris and The Hague,

and about a month will be spent at Geneva. Among members of the party will be Professors M. W. Graham, Jr., University of California, Southern Branch, C. A. Berdahl, of the University of Illinois, C. E. Hill, of George Washington University, P. B. Potter, of the University of Wisconsin, Quincy Wright, of the University of Chicago, Kenneth Colegrove, of Northwestern University, Graham H. Stuart of Stanford University, C. E. Martin, of the University of Washington, F. A. Middlebush, of the University of Missouri, C. P. Patterson, of the University of Texas, Henry R. Spencer, of Ohio State University, and Geddes Rutherford, of Iowa State College.

Some announcements of interest have been made in connection with the plan of organization of the Walter Hines Page School of International Relations, to be operated as a separate and independent unit in Johns Hopkins University. Among them are (1) that the head or director of the school will act as chief of staff in plans for research and as official representative of the school in unifying its activities with other departments in the University; (2) that the first four professors will occupy chairs in international law, diplomatic history, international commercial policies, and international finance; (3) that the school will not emphasize formal instruction, but will endeavor to assemble existing information on world affairs and pursue those lines that will add to the total of existing knowledge; and (4) that the expected results will be an enlargement of available information on international affairs and the training of a body of experts in international relations.

The regular semi-annual meeting of the Academy of Political Science held at Briarcliff Lodge and New York City on May 10-13 took the form of a conference on international problems and relations, under the joint auspices of the Academy and the Carnegie Endowment for International Peace. A number of foreign guests were invited, and also one hundred or more representative American journalists and editors. The topics considered at general sessions were: practical ways and means of disarmament; international coöperation for the promotion of public health and welfare; relation of the control of raw materials to peace and economic prosperity; the economic problem of France; and America's part in international coöperation. Round-table conferences were held on the following subjects: practical problems of reduction and limitation of armaments; Mexican problems; international public health and welfare problems in relation to the protection of women and children; sanctions and American policy; the problems of the Near East; the

situation as regards raw material; international problems of the powers facing the Pacific Ocean; the economic problem of France; and political and financial control of raw materials in war and peace.

The second conference on teaching and research in the social sciences, held by scholars of the southern portions of the country, was in session at the University of Virginia on March 19-20. Reports on the extent of teaching and research in the social sciences in about a dozen southern states were presented by representatives of the respective states, and a session was devoted to examples of research being undertaken or planned, presented by faculty members of southern institutions. Professor Charles E. Merriam, of the University of Chicago, spoke on social science research in the United States, and Mr. T. J. Woofter, Jr., of the inter-racial commission, Atlanta, outlined a plan for a southern social science research council. At a session devoted to state organization of social science teachers, the speakers were Professors W. E. Garnett, Virginia Polytechnic Institute, C. C. Taylor, North Carolina State College of Agriculture and Engineering, and D. D. Carroll, University of North Carolina.

The Los Angeles Institute of Public Affairs has planned a series of conferences and lectures on government and administration, to be held in connection with the summer session of the University of California, Southern Branch. One of the round table conferences is to be devoted to international problems pertaining to China and the Orient; another to municipal affairs, with particular reference to metropolitan and regional administration, and also questions of traffic and transit, and a third to the administration of justice, with attention especially to efforts to improve criminal law and procedure. The Institute of Public Affairs is under the general direction of the staff of the department of political science of the University of California, Southern Branch, but will be conducted in coöperation with other organizations and agencies which are interested in the issues and problems under discussion. The programs of the group meetings are in charge of a committee consisting of Professors Charles G. Haines, chairman, C. A. Dykstra, M. W. Graham, Jr., and Miller McClintock. Consideration of the administration of justice is made particularly timely by the fact that a state commission, with Major Walter K. Tuller as chairman, is at work on a plan to revise the criminal laws and procedure of the state.

The sixth annual session of the Institute of Politics will be held at Williamstown from July 29 to August 26 inclusive. Three full courses

of lectures will be given as follows: "Disarmament and Security," by M. Nicholas Politis, formerly minister of foreign affairs in Greece and now minister to France; "The European Situation," Dr. A. Mendelssohn-Bartholdy, professor of law at the University of Hamburg, a member of the German peace delegation to Paris in 1919, and present member of the commission for the arbitration of disputes arising out of the fulfillment of the Dawes plan; and "Chemistry in World Progress," Sir James Colquhoun Irvine, president of the University of St. Andrews. Special lectures will be given also by Sir Frederick Whyte, president of the Indian Legislative Assembly in 1920-25, and Dr. Umberto Pomilio, of Naples. The former will speak on the general political situation in the Orient and the latter on industrial materials and their uses. General conferences, open to all members of the Institute, have been arranged as follows: "A Survey of the International Situation in the Far East," Professor George H. Blakeslee, of Clark University; "Public Opinion in World Affairs," Mr. Arthur S. Draper, foreign editor of the New York Herald-Tribune; "The Future Rôle of Chemistry in World Affairs," Mr. Harrison E. Howe, Washington, D. C.; and "Mineral Resources in their Political Relations," Professor Charles K. Leith, University of Wisconsin. The round-table conferences, confined strictly to those members of the Institute who have been assigned to them, are: "Aspects of the World Economic Situation," Professor Moritz J. Bonn, University of Berlin; "The Future Rôle of Chemistry in World Affairs," Mr. Harrison E. Howe, Washington, D. C.; "International Problems Arising from the Diversity of Legal Systems," Mr. Arthur K. Kuhn, New York City; "Mineral Resources in their Political Relations," Mr. H. Foster Bain, New York City, Professor Charles K. Leith, University of Wisconsin, and Mr. Charles McDowell, Chicago; "The Chinese Republic and the Powers," Mr. Henry K. Norton, New York City; "Limitation of Armaments," Professor J. S. Reeves, University of Michigan; and "Inter-American Problems in the Foreign Policy of the United States," Dr. Leo S. Rowe, Pan American Union, Washington, D. C.

The Content of the Introductory Course in Political Science. Probably no more significant exposition can be made of the present state of political science than to note the divergence of opinion among its devotees with regard to the content of the introductory and fundamental course in the subject. Moreover, it is not the expectation or object of this paper to bring agreement where there is now disagreement. For a

time it seems rather likely that the present situation will become intensified as the quest for introductory material proceeds, a quest that many individuals, a number of special academic agencies seeking to produce desired citizen types, and higher institutions of learning generally are all pursuing with greater or less zeal.

In the past, the divergence in opinion among those responsible for offering introductory courses has been indicated chiefly with respect to the assortment and quantity of descriptive material to be used. Disagreement has been born of training and has been accentuated by the different aims or objectives which the introductory course was presumed to serve. Such adaptation seems to be logical within moderate limits, and if there is no body of material which may be generally accepted as fundamental there is hardly any limit to the variations in which curricula may indulge. Indeed, in this respect political scientists have been wise and logical, for as between bodies of descriptive material there is no good reason for denying the validity of any of it as a suitable point of beginning. Obviously, however, with given objectives and under given circumstances, some parts may be more advantageously used than others.

Thus it has come about that the demand for broad cultural training has been met in many instances by giving a general introductory survey of the political practice of the race during historical times, including some consideration of the major apologies or criticisms with respect to the various aspects thereof. The historical method serves to determine and describe the political phenomena of a given period or people and to provide a record of the process by which practice became rationalized. When this survey of political experience and reflection was complete, the student was deemed to have the background against which to project and evaluate current phenomena. Unfortunately, because of the limitations of time and method the conditioning factors which produced the formal political institutions or maintained them have rarely been dealt with. As a result, few if any of the students could acquire insight into the relation between causal factors and the political phenomena under scrutiny. In short, the introduction, if such it has been, has lacked dynamic quality and has had little or no vital relation to the life of the student.

One may observe also that this result has not been appreciably altered by a second type of introductory course which seeks to illumine the mind of the student through the comparative analysis of political practice in the chief contemporary states. It should be noted, however,

that there is some gain in the degree of interest stimulated by the sense of nearness in time and of seemingly practical values incident to familiarity with one's own age. But, on the whole, the material available for comparative study of formal political institutions is wanting in effectiveness, and the success of such a course is to a large extent dependent upon the vividness with which the instructor can present the material. Moon-like, it will dimly but gratifyingly reflect the glow of a radiant personality. Such a teacher is the only living force with which the student, unless he be unusually curious about the human scene, ever comes into contact. Of executive systems, legislative systems, administrative systems, legal systems, systems of local government, *et cetera*, as vehicles of life, he learns little and understands less. Usually he glimpses only the variations in color and leaves the course with the usual number of semester hours credit and the usual want of insight into the conditioning factors which produced the spectacle. Still, he is the gainer, if, in the presence of a body of political experience so rich and varied in character and so vast in extent, he becomes humble.

The search for the practical equipment needed by the citizen for the exhausting tasks of his day of omnicompetence has led the majority of colleges and universities to begin instruction in political science with a survey of American government and politics. Whether inducted into this field after a brief review of former rationalizations regarding major political phenomena, or by short cuts through the devious and tortuous pathway of American colonial polity, revolutionary fervor, and the *real-politik* of constitution making, or by some combination of the two which first hurriedly brings him through the deserts of speculation to the border of his promised land and then temporarily plunges him back into the wilderness of American political origins—in any case he soon finds himself in the presence of the supreme law of the land and in the midst of the most luxuriant flora in the political world. Forty-nine major governments flourish in the American field and a bewildering complex of local governmental agencies. Without more ado, the beginner undertakes the conquest of their organization, powers, functions, administrative and legislative processes, foreign affairs, interstate relations, citizen rights and duties, political party organization, functions, and methods, and the chief political, social, and economic problems of American life. If he survives both the content and the methods of instruction he adopts one of four principal alternatives: he joins the army of vanishing voters; he joins the group of professional Fridays who stage the sham battles of American politics; he joins a hundred per cent American service club

and thanks God he is not as alien as his forefathers were; or he becomes a reformer, perhaps as futile as his predecessors. Now and then he may endure to the end, become a teacher of American government, perhaps even the author of a text to perpetuate his enlightenment among the throngs who are crowding into civic responsibility.

More recently has appeared the introductory approach through the statement of major problems of politics and the description and analysis of the chief solutions which have been worked out. The student is ushered into the presence of such dignified and diverse puzzles as the scope of governmental activity, the suspension of constitutional guarantees, pluralism vs. monism, the merit system, and public control of government, budgetary procedure and representative government, the regulation and control of commerce and industry, the judicial function, etc. Perhaps he has been assured by way of prelude that political science is under obligation to other sciences and makes use of their findings as a starting point. Some of these sciences, such as sociology and social psychology, are commonly deemed by curricular arrangement as undesirable for persons less mature in social experience than juniors and seniors. Thus the foundations for the understanding of government and politics are denied, and the formidable task of begetting insight and the interest in the political scene which almost invariably accompanies it is deferred until the majority have succumbed to the bewildering immensity and intricacy of the political problems indicated or view them as a stupid evil which every healthy mortal will do well to ignore. Some, more impressed with the dilemma presented in political society, will rejoice in the contacts established and come to the conclusion that such a course should be made compulsory. A minority decide to do major work in the field as a means of satisfying the requirements for a small amount of concentration before receiving the bachelor's degree. A few sense the importance of becoming familiar with the main trails in preparation for law or graduate work in the field. On the whole, there is freshness in the problem approach to political science, but chiefly because its newness has afforded temporary relief and change to an overworked, jaded, and disillusioned teaching personnel.

Is there a fundamental and dynamic approach to political science which offers emancipation from the worst evils we now endure and from the mental malpractice in which we now participate? No amount of rationalization will establish the validity of present practice, or of any practice that rests chiefly upon descriptive material, problem material, "practical methods," and the like. Normally the result will be a class of

student Babbitts, skilled crammers, immediate forgetters, creatures of rote, and unwitting pillars of some form of oligarchy. We are caught up in an immense and alleged educational machine, inundated with numbers who seek they know not what, a machine in which the administrative problem of providing sufficient and competent instruction has been shifted to overburdened teachers and overcrowded classrooms, and in which pedagogical devices, textbooks, and reports of various sorts are substituted for the indispensable contact of learner with learner and constitute the squirrel cage within which we keep in motion and cultivate the illusion of progress. From such a predicament there may be no rescue in sight. From the standpoint of organization and method there can be no relief so long as the teacher permits administration to saddle him with the problem of numbers. But in the widespread disagreement as to the nature and content of the introductory course there is evidence of healthy experiment and determined exploration.

There is one divergence from the introductory courses just described which is so fundamental in character and content and which involves such a marked revaluation of objectives and methods that previously mentioned differences seem less significant in contrast. Especially is this the case because it seems possible to realize both the cultural and practical objectives of the introductory work more effectively than do any of the courses now generally in vogue. It is in the hope that the experience of one who has been exploring the possibilities of this newer approach may be helpful to others charged with the responsibility of introducing the student to political science that attention to it is invited, especially as it is not assumed that the content and method of the course have been more than tentatively worked out.

The introduction indicated deals with political control as one of the major factors in social control and traces and develops its genesis, nature, and technique. The findings of anthropology, social biology, psychology, sociology, and economics are reviewed, thus enabling a survey of political phenomena from the standpoint of causation as well as description. The historical method and the critique of law are employed and government is given genetic treatment. Its relations to and interrelations with other types of social control, e.g., the family, religion, education, etc., are indicated. The life of the student from infancy to the present day takes on new meaning. Interest becomes dynamic as the origins, motivations, techniques, and mechanisms of control by the group over the individual are unfolded, and as the desires, motivations, habit responses, and mechanisms of the individual to which appeal is made and through

which control is made effective pass in review. The human scene in its political aspects takes on new meaning as it becomes associated with the problem of one's own personality, a major and intriguing factor from each individual's point of view. All the groups to which the student belongs and all the controls to which he is subject become the objects of scrutiny and subjects for reflection, and the individual's relation to the functions of restraint, social and political integration, efficient regulative activity in behalf of the common welfare, and to the effort to attain equitable and harmonious adjustment among the conflicting egoisms of the multitude become apparent. Even national loyalty begins to take its logical place in the world relationship in which it properly belongs.

This reconstruction of approach with a view to explaining as well as describing political phenomena involves the development of new methods and techniques and the use of terminology and material heretofore unappropriated or ignored. The textbooks of today are valuable as works of reference, but afford no basis adequate for the task in hand. Moreover it is not possible to assume that the freshman or sophomore in political science has the background in biology, sociology, economics, and psychology necessary for the explanation and understanding of political life. Yet without such background the descriptive material and rationalizations of existing political systems now so generously placed before him can rarely have real cultural or civic significance. The mastery of them may be of some importance as discipline, or in a program of inculcation, or in the process of maturing the thousands of minds now in contact with higher education; but these processes may be, and all too frequently are, unrelated to the development of a sense of causal relationships in the field of political science. As a rule, the recipients of such training are as uninformed except in respect to the formal and routine aspects of government as before taking the courses given. Nor is it sufficient for teachers of political science to plead in mitigation of this situation the absence of background and preparation on the part of the students. Not only in behalf of those who will later specialize in the field, but for the quickening of all who come into contact with the subject, it becomes our business to organize the background as an integral part of the material of the course and to present it from whatever contributing sciences it may be drawn in such fashion as will best illumine and vitalize the particular field in which we labor.

To find content for such an introduction is not difficult, but it would be presumptuous to indicate more than a tentative selection. In my

judgment, there is no valid reason why an instructor might not work out such an introduction in connection with any part of the general domain of political science from which he can bring data with the greatest ease and assurance. This alone would serve to break up the regimentation of approach and secure the enthusiasms for introductory work which ordinarily accompany only the mastery and understanding of particular fields. But in this country it is more likely that general introductory courses will usually be worked out in connection with the political phenomena of American life, and occasionally with those of other contemporary governments. My experience has indicated that a semester devoted to background in the basic contributing fields is adequate to develop the criteria and technique for analyzing political controls, and the rest of a year course of six hours credit may well be spent in applying this basic knowledge to specific problems in the field under study, e.g., American government.

As one who has taught more than one introductory approach to political science, and who has achieved a relative measure of success in dealing with large bodies of students, I confess to being deeply aware of the mental malpractice to which I have subjected thousands of normal individuals through a stupid introduction to the subject. In so far as this paper suggests reconstruction, it is done humbly and in the hope that better ways may be devised. It is in no spirit of finality that I indicate the content of the introductory course with which I am now experimenting and which I find so fruitful and rewarding, but rather that the account here rendered may call forth further testimony and experiment on the part of others.

In the beginning, it is important to challenge the validity of the thought process and opinions of the student with respect to all social phenomena and to indicate how much of the political *credo* of the average man has no rational quality so far as his relation to it is concerned. Having initiated this iconoclastic attack upon the opinionated and prejudiced concepts and attitudes with which all students enter upon the study of social and political phenomena, a few days are spent in reviewing the findings of modern biology in regard to heredity, environment, the question of population, and the increasing significance of the science of eugenics, all factors having important political implications. The mimeograph readily enables a class to cover the essential facts, including the significant relation between biology and the basic sciences of chemistry and physics, within the time allotted. Occasionally an important current contribution is available to assist, such as the recent

article by Professor Conklin in the November *Scribner's*. The next step is to acquaint the student with the findings of psychology, especially objective psychology, in regard to bias and prejudice, the egoism of the crowd, the phenomena of response within the crowd, the significance of repressed complexes, the factors of wise thinking, habit response, and the importance of control terms and slogans, the presence of human motivation in social causation, the fallacies lurking within institutions as mental concepts—these and special contributions such as O'Higgins, "The American Mind in Action," are available as aids to a causal explanation of political behavior on the part both of the individual and of the group. Follow this with a survey of the folkways and *mores* as significant controls in the realm of public affairs and the political *credo* of the individual—an effective method of establishing the sociological basis of political science. When to this is added an introduction to the political practices of primitive people, the headmen and medicine men of today begin to show through the veneer with which they have been covered through usage and uncritical acceptance.

A class may then consider the economic controls in political behavior, using chapters from Keller's "Starting Points in Social Science" to indicate and explain the importance of economic conditions. The change in the character of the fundamental economic problem from that of overcoming constant deficit in production to that of securing proper distribution of surplus, and the political implications of that change, are suggested by Patten's "New Economic Basis of Civilization." Read in connection with one of the modern utopias, the effect is to project the imagination of the student into a future calling for the fruitful release of all the energies he may possess.

The remainder of the semester may be spent in considering the validity and importance of government as one of the controls of society, the chief one, and its relation to other obvious controls, those exercised by religion, the family, and education, to mention the most important. But none of these are now viewed with uncritical eye; they, too, have become the objects of inquiry, investigation, and reflection, and all the accepted modes of expressing control subject to challenge and appraisal. In entering upon the study of government, the student now brings to the task not only an understanding of its place in the field of science generally and the social sciences in particular, but a basic knowledge essential to insight as to the meaning and validity of its forms and functions and an attitude of mind that brooks no vapid generalizations in lieu of explanation based upon working hypotheses drawn from all

the contributing fields of knowledge. Government ceases to be the object of rote and becomes the vehicle through which life, the student's life, that of his family and of the groups with which he is associated, is expressed and its interests given force and made effective. His spirit is chastened and humbled as he realizes how little of reason and how much of emotion has entered into his thinking and how through obvious techniques the mechanism of his own personality has been available to exploit and control his behavior through illogical appeals.

From such an introduction, the teacher may launch into a second semester studying the phenomena of political life and organization in any one of a number of directions such as American national, state, or municipal government or other modern government. But the treatment can never be purely formal and descriptive—always it must reflect the government as an agency of social control operated or rendered inoperative by human forces, groups, and individuals seeking expression or struggling to realize objectives through the mechanisms of political society and the control of the mechanism of personality in others. The political aspects of the human scene and the techniques of political control are the objects of increasingly dynamic and discriminating interest.

No teacher of political science should imagine that such an introduction, with its accompanying release of energy and scrutiny of all present forms of political control, is free from its problems. Not so. Critical eyes are turned toward all the social controls to which the student is subject. Group regimentation through fraternities and sororities come, under review, family relations are examined in a new light, university and college regulations are brought under the microscope, athletic exploitation of the loyalties and *mores* of student life becomes visible, propaganda of all sorts, idealistic and otherwise, advertising appeals—all these aspects of the human scene and many more become areas of new understanding through ability to transfer his technique of inquiry, investigation, and reflection to bear upon different kinds of situations. In it all, the dominant attitude, if the teaching has been well done, is one of humble awareness and increasing dependence upon research and expertly formulated appraisals.

With such an introduction, the teacher of political science has at his command an immense laboratory comprising the controls of group and campus life as well as those of state and nation. The scientific method is shown to be available for the description and explanation of political phenomena. Certain hypotheses are already indicated, although

the nearness of the frontier is apparent to all. The quest for explanation becomes a passion stimulated by the realization that one's own most interesting self is deeply involved in the area of life under review. The contact of learner with teacher, also a learner rather than an oracle or a textbook, is one of the most stimulating experiences in academic life and need not be reserved for upperclassmen and graduates. Insight into the controls of government and politics is the essence of political science, and the acquisition of insight offers the only assurance that the average person can be sufficiently immune to illogical appeals, propaganda, and control to be considered a free man. Without free men in such a sense, the assumptions underlying popular government are invalid. The alternative, however disguised, is some modification of oligarchy—government of, by, and in the long run for, the few. An introduction to political science that is candid, objective, scientific, and explanatory might contribute much to the realization of the age-long dream of a great society of free men in a free state.

RUSSELL M. STORY.

Pomona College.

BOOK REVIEWS

EDITED BY W. B. MUNRO AND A. C. HANFORD

Harvard University

Précis Élémentaire de Droit Administratif. By ROGER BONNARD. (Paris: Recueil Sirey. 1926. Pp. 555.)

Précis Élémentaire de Droit Administratif. By MAURICE HAURIOU. (Paris: Recueil Sirey. 1926. Pp. vi, 521.)

These are two manuals bearing the same title and covering essentially the same field, prepared for the use of candidates for the degree of *licence en droit* in the French universities. The author of the first one is the well known professor of administrative law in the University of Bordeaux; the author of the second one is the eminent dean of the law faculty of the University of Toulouse and one of the outstanding authorities on French *administrative* and constitutional law. Both treatises are models as text-books for college students, and it would be difficult to say which of the two more nearly meets the needs for which they were written. The subject matter of each volume is logically arranged and divided into titles, chapters, sections, and numerous rubrics with that meticulous care which is characteristic of French scientific treatises. Professor Hauriou's manual, he tells us, contains the "doctrinal substance" of his larger and earlier work on administrative law (10th edition, 1921), with the formulas simplified and the treatment abridged. He expresses the hope that it may arouse a sympathetic interest among students for a branch of law which, he says, has enjoyed for a long time only a "mediocre reputation."

While the field covered by both books is limited mainly to an exposition of the general principles of administrative law and administrative jurisdiction, with a summary of the jurisprudence, each author naturally emphasizes or passes over certain matters which are otherwise treated by the other. Professor Hauriou plunges into the subject of his treatise at the outset, whereas Professor Bonnard prefaces his work with an introductory general chapter dealing in the main with the state: its attributes, its functions, the public services, and the theories relative to juridical personality and sovereignty of the state—a chapter which will doubtless appeal more to the student of political science than the student

of administrative law. Professor Hauriou draws a contrast between countries like France which have a *régime administratif* and those like England and the United States which do not have it. In the former the administrative function is assumed by a power of centralized police which is at the same time a branch of the executive power distinct from and independent of the judicial power, whereas in the latter the administrative machinery is subject to judicial control and may therefore be called a régime of "judicial administration."

The reasons which justify the separation and independence of the administrative jurisdiction as over against the jurisdiction of the ordinary judicial courts are, he says, of three kinds: first, the desirability that administrative controversies, by reason of their peculiar character, should be decided by judges who possess special qualifications such as the judges of the ordinary courts do not have; second, because it is unnatural that the state should be willing to submit the control of its acts to an ordinary judicial magistrate and thereby incur the risk of condemnation and execution; and, third, because a specially trained administrative judge, particularly if he is in touch with the administration, is (contrary to the Anglo-American view) in a better position than the ordinary judge to "sacrifice the prerogatives of the public power and to appreciate progressively the sacrifices necessary." In support of this last statement he calls attention to the fact, abundantly supported by the jurisprudence of the Council of State and the Court of Cassation, that the latter has shown itself to be far less disposed than the former to decide against the claims of the administration in its controversies with private individuals.

Here lies one of the curious developments of French administrative jurisprudence. The whole principle of administrative jurisdiction is attacked in England and the United States on the assumption that the immunity of the administration from judicial control and its subjection to the control merely of the administrative courts means no real control at all and thus leaves the individual to the tender mercies of the government. The history of French jurisprudence shows the contrary to be the fact. In hundreds of cases the claims of the individual against the state have been sustained by the supreme administrative court when they would have been denied by the Court of Cassation. In short, the Council of State has shown itself to be more liberal, more progressive, and more ready, as M. Hauriou remarks, to "sacrifice the prerogatives" of the administration and to uphold the rights of the individual than the judicial courts have usually been, much more strictly bound, as

they are, by the law and less free to base their decisions upon considerations of expediency and equity.

J. W. GARNER.

University of Illinois.

The Governments of Europe. By WILLIAM BENNETT MUNRO. (New York: The Macmillan Company. 1925. Pp. viii, 782.)

The author announces that his aim in writing this book has been "merely to provide, for the general reader and college student, a pen picture" of the chief governments of Europe "in broad outline, in silhouette, as it were." The governments of five major countries have been included, i.e., those of Great Britain, France, Germany, Italy, and Russia, and, in addition, those of a half-dozen or more of the lesser states. To write an adequate account of the foregoing within the compass of one volume of moderate size would be a truly formidable task; to accomplish the author's objective is something yet more difficult. There is an immense mass of facts to be encountered; but the finding and the setting forth of the facts alone will not suffice. That might indeed give a distorted view of the form, principles, and functioning of the various governments. In such a work as projected here, the art of selection is of primary importance. A certain hard-heartedness in discarding well-known facts and theories respecting the various governments is highly desirable not only in the interest of truth but in the interest of the prospective reader and student. It goes without saying that Professor Munro has selected well, and that he has thereby been able to tell more truth about his subject than if he had attempted to tell more.

At the outset, one cannot avoid regarding the governments of these twenty and more nations as a whole; as the several manifestations of the efforts of the people of a great continent to solve the problem of the "coercive institution" of society as well as their efforts at collective action in political matters. From this standpoint, the author was justified in picking out here and there for more elaborate treatment those devices and methods of government which have been particularly successful, which are unique, or which have served as examples and have been widely imitated in many countries. In Great Britain, parliamentary and party government, the administration of the national finances, the organization and control of the civil service, the judiciary and the methods of law enforcement are such, and deserve the consideration given them. Other topics of this kind are the use of the initiative and

the referendum in Switzerland; the system of local government in France; and, in the same country, the success, through the use of the administrative courts and law, in enforcing the liability of government for the unlawful acts of its officials and at the same time not obstructing the firm enforcement of the law. The chapters on "Law and Law Courts" and "Administrative Jurisprudence" are admirable, and should be known to a wide group of readers in this land of the common law. In the brief account of the new German government, consideration is given to the method of election to the Reichstag through a system of proportional representation; to the second chamber problem, which is solved through the use of the Reichsrat as a reviewing and checking body only; and to the attempt to link up in an unusual degree the economic life of the nation with the government through the creation of the Reichswirtschaftsrat. It is to be regretted that the well-ordered German civil service could not have been given more consideration.

Political parties are treated as "integral factors in the mechanism of democratic government." Certainly no view which did not accept this premise would be at all adequate. The author finds that in England "there are political organizations . . . but no political machines" deserving of the name; nor anyone "hardly entitled to be called political bosses." In Switzerland there is found the seeming paradox of a people, intelligent, educated, interested in public affairs, and possessed of political experience, but not greatly concerned about the triumph or defeat of a political party. Absence of a well-known species, the professional politician, is noted. A country with more statesmen than politicians deserves further study. Why the American social system breeds and supports the latter in abundance, and the Swiss and English do not—in fact, the whole subject of political parties as motivating parts of the government on one side, and emanations from society on the other—is deserving of careful study in these little laboratories of Europe; much more, of course than could be attempted in a work of the limited objective of this one.

This volume offers ample proof of the old dictum that the science of government and politics is an experimental and a progressive one. Not one of the governments described is just what it was twenty years ago, and a majority of them are not even substantially so. It is of the utmost importance to know how the various progressive and revolutionary changes among these peoples, of all in the world the most experienced in matters of government, were brought about, and in what ways their political genius manifested itself in devising new forms. The student of

government must direct his attention not only to governments that are going concerns, but to the processes of change; for the same social forces and motives must exist in stable states and in acts of revolution. No other field of study for this purpose can well prove as fruitful as Europe.

The book is clear, forceful, well-organized, and on the whole impartial. The author has rendered a substantial service to the general reader and student of European government.

EARL L. SHOUP.

Western Reserve University.

American City Government. By WILLIAM ANDERSON. (New York: Henry Holt and Company. 1925. Pp. ix, 675.)

Professor Anderson's contribution to the American Political Science Series edited by Professor Edward S. Corwin is a volume intended for use as a college textbook in municipal government. Although there are several excellent texts already in the field, the scope of municipal government is so broad, the science of municipal government is developing so rapidly, and experimentation is so constantly bringing to light new facts, that there is abundant room for a new text.

The author did not bring forth "just another text." He gave his work an individuality and character all its own. He attained the end by choosing to emphasize the "working processes of government" rather than the "structure of government," to "stress principles rather than details of fact," and to relate the principles "to the several important steps in the normal process of popular government." Furthermore, the author adopted the ambitious task of keeping before the eyes of his readers "the whole series of social and economic groups and forces which play important parts in the urban drama."

The reader soon discovers that the author is making good his promise. The reader is led, from time to time, into by-paths of philosophy, psychology, political theory, sociology, economics, public finance, constitutional law, federal and state relations, etc. Not only has the author brought to his use and made to serve his purpose the principles from these allied fields, but also he has caused the master minds of all ages to contribute from their wisdom. The reader is surprised now and again by glimpses of Chaucer and Emerson, Herbert Spencer and Sidney Webb, Mathew Arnold and Mr. Dooley, Aristotle and Lowell, Thomas Paine and Walter Lippmann; John Stuart Mill becomes a familiar figure (quoted or cited at least sixteen different times); while Rousseau, Jeffer-

son, Hamilton, Bryce, Bosanquet, and Jane Addams are not neglected. Moreover, the author himself from time to time plays the part of a successful philosopher. For example (to cite only one of many instances): "A simple explanation of social or political occurrences is usually wrong"; and "a 'good' reason why a change should be made is not always the real reason why it is made."

The reader feels that the author has ever before him the conscious aim to discover and present the scientific relations in the processes of government. The breadth of the field, the nature of the material available, and the method of approach, however, have led the author in many places to use the deductive or *a priori* method of analysis rather than the inductive method based on objective evidence. Why the method was used is explained by the author as follows (p. 312): "The so-called inductive method is quite out of the question; therefore, we are forced to fall back upon the deductive or *a priori* method of analysis. Instead of exploring a great mass of facts in order to ascertain sound principles of organization, we first find certain principles drawn from the experience and reason of men, and then we proceed to test the different forms of government by determining whether they do or do not conform to our principles." This method has both its advantages and its dangers. It at least has enabled the author to enter the realm of speculation and theory, to stimulate thought and stir up controversy; there is a challenge on almost every page. The material, however, in the second half of the book, covering especially the city council, municipal administration, and municipal finance lends itself more readily to the inductive method, which method, in the main, is the basis of the author's generalizations in that portion of the text.

The author introduces his subject (Chaps. I-II) by stating the problems of city government, which, in his opinion, result largely from the unprecedented growth which has made the cities "the very center of the new life of man." The introduction is followed (Chaps. III-VI) by a brief treatment of the constitutional and legal aspects of the city government. The third section (Chaps. VII-XI) portrays the people of the city in relation to the processes of government. Here the author not only considers the human background of city government but attempts to set forth with a bold hand "the whole series of social and economic groups and forces which play an important part in the political drama. Public opinion, political parties, the machine, the boss, the reformer, nominating systems, methods of voting, direct legislation, and the recall are all examined and evaluated as factors in the processes of

government. This section is the most stimulating portion of the book, but at the same time it is the most vulnerable.

Municipal organization occupies two chapters (XII-XIII). This subject is presented from two viewpoints: (a) historical development of the forms of city government, and (b) present day forms. In the opinion of the reviewer, Chapter XII on "The History of the Forms of City Government" is the least valuable chapter in the book and space might have been saved by incorporating the substance of that chapter in the materials of Chapter XIII. The reviewer, however, has not read a clearer or more convincing exposition of the city-manager form than is presented in Chapter XIII.

The process of legislation is presented in two chapters (XIV-XV) on "The City Council." Incidentally, the position of the mayor is also discussed in this section. Although only one chapter (XVI) is given to "Municipal Functions," the author in that chapter shows a breadth of knowledge, wide acquaintance with authors, philosophic insight, and the art of critical analysis, unsurpassed if not unequalled in any other section of the book.

Municipal administration occupies the major portion of the remaining chapters (XVII-XXIII), covering less than one sixth of the entire book. The author limits his treatment of this subject to the machinery of administration, and municipal finance. This section, if less stimulating, is certainly more "orthodox." The student is referred to "collateral readings in other works" (p. viii) for a knowledge of the several administrative services such as police, fire, etc. The concluding chapter presents the author's reform program which includes: (a) the short ballot, with its probable tendency toward elimination of "the invisible government"; (b) rigid application of the merit system and such supporting reforms as will take away the sustenance of the spoils party and thus tend to destroy the machine; (c) the Hare system of proportional representation, with nomination by petition and the elimination of primaries; and (d) more thorough political education of the voters (p. 640).

It would seem humanly impossible for an author with courage enough to attempt such a book to escape entirely the pitfalls of occasional inconsistencies. It is a compliment to the author that so few occur. A rather striking inconsistency, it seems to the reviewer, is found in the author's pessimism with regard to the ability of the masses to rule, as portrayed in the chapter on public opinion and political parties, and his optimism with regard to the same in the chapter on "reform" and in his quotation from Bosanquet on pp. 420-421.

Occasionally the reviewer was forced to question the author's statement of facts. For example, he says (p. 335) that "the popular election of the mayor" in a city-manager city "would cause little harm and might do some good." The reviewer has observed instances where that provision has brought about an almost complete failure in the city-manager experiment. Again (p. 136), the author states that "because the 'Jewish vote' as a separate thing does not exist it cannot be delivered." The author's conclusion could not have been based upon several cities known to the reviewer.

The method of portraying the processes rather than the structure or functions of government has led to occasional repetitions and space-consuming overlapping of materials. For example, "proportional representation" in its essential features is described twice, first in Chapter X on nominations and elections (pp. 247-250), and again in more detail in Chapter XIV on the city council (pp. 337-364).

The author has produced a text which should serve as a challenge and an intellectual stimulant to the American college student who is willing to work hard. It will be shunned by the "country club" student who takes his information predigested. It is especially well adapted to courses conducted on the conference or discussion, rather than the lecture, method. It should also prove valuable in the preparation for comprehensive or major examinations in political science by students in such institutions as have adopted such a system.

The reviewer cannot refrain from adding, in conclusion, that the greatest need facing textbook writers in political science is carefully prepared monographs covering minutely and accurately the many fields still dependent upon the *a priori* method of analysis.

ORREN CHALMER HORMELL.

Bowdoin College.

The Usages of the American Constitution. By HERBERT W. HORWILL.
(New York: Oxford University Press. 1925. Pp. xii, 251.)

As everyone knows, the constitution of the United States has been rendered a workable instrument of government by statute, by judicial decision, and by the rise of a number of political and governmental practices which have long since come to be regarded as settling its meaning on the points covered by them. Among such practices is that whereby presidential electors are obliged to vote for the party nominee; that whereby a president is—or has been—forbidden to run for a third term; that whereby, when the president dies, the vice-president becomes

president; that whereby the president has ordinarily been permitted an uncensored choice of the members of his cabinet; that whereby a congressman is required to reside within the district which he represents; that whereby Congress is forbidden to overcome an unwelcome decision of the Supreme Court by "swamping" the Court; etc. All of these matters are fairly familiar to American students, but in bringing them together under one roof, as it were, Mr. Horwill has done something well worth doing.

Mr. Horwill would have liked to call his book "The Conventions of the American Constitution," but found the word "convention" in this context preëmpted for a very different use in the United States. He observes further that the word "constitution" is ambiguous, meaning now a particular document and now—more broadly—"the rules in accordance with which the sovereign power of the state is exercised." A French writer would no doubt designate the first the "formal" sense of the term, the second its "material" sense. The first is also its American sense, the second its British; and this time Mr. Horwill refuses to recede from his natural preference. What we call the Constitution he accordingly renames "The Fundamental Law of the Constitution," whereupon he proceeds gaily to repeal the Eighteenth Amendment even as a part of said Fundamental Law. Whatever fortune may attend him in the latter enterprise, it is impossible to overlook the fact that the American employment of the term constitution is today world-wide, while the British remains—British.

Some other verdicts of our author are also provocative of challenge. His implication that the electoral college counts for nothing nowadays is of course erroneous. The primary purpose of this body was not to keep the choice of president out of the hands of the people, but to leave each state free to determine its own rule of suffrage while preserving a due weight in the choice of president; and this purpose—today considerably attenuated by the Fifteenth and Nineteenth Amendments, to be sure—is still fulfilled. Mr. Horwill neglects to note that more than once the candidate having a plurality of popular votes has failed in the college. He also overlooks the operation of the system in necessitating a comparatively widespread support for a successful candidacy, and in removing the temptation to fraud if more votes meant more electors.

Perhaps the most interesting chapter in the book is that entitled "Accidental Presidents." It is Mr. Horwill's contention that in taking upon themselves the title and office of president those vice-presidents who have succeeded in consequence of the death of the president have

been guilty of a species of usurpation of Article II, which says: "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President." "Grammatically," Mr. Horwill asserts, the phrase "the powers and duties of the said office" is the antecedent of "the same." Actually, however, it would seem that the requirements of grammar are better met by making "office" the antecedent, this alone being mentioned in the opening clause of the paragraph. Besides, is there any distinction between "the powers and duties" of an office and the office itself when with them is joined a guaranteed tenure, as is the case when the vice-president succeeds in consequence of the death, removal, or resignation of the president? Nor should it be overlooked that whereas, in the case of the disappearance from the scene of both president and vice-president, the "officer" designated by Congress to "act as President" holds only "until the disability be removed, or a President shall be elected," no such provision is made for the case when the vice-president succeeds. But whatever may have been the original intention of the Constitution—and inartistic drafting would seem to have left it somewhat obscure—Mr. Horwill's further contention that usage has settled the question would seem to be well grounded.

Another interesting chapter is that on "The Resident Congressman," in which Mr. Horwill explains the monstrous regiment of pettifoggers under which this country has so long groaned as in part an outcome of the localistic superstition. In this matter British practice is so different from our own, and so much more wholesome, that Mr. Horwill's criticisms are particularly valuable. On the other hand, in his last chapter, entitled "'Safeguards' of the Constitution," our author has ventured rather beyond his depth. "Again and again," he says, "the fundamental law has been nullified in practice by judicial interpretation." His principal illustration is the commerce clause. But his assumption that commerce originally meant "transportation," and only that, is exactly contrary to fact—the original question was whether it meant transportation at all (*Gibbons v. Ogden*, 9 Wheaton 1). It is to be suspected that in writing this chapter Mr. Horwill was taken into camp by one of the numerous "constitutional lawyers" with which the capital city swarms.

Mr. Horwill writes with gusto, modelling his style closely after that of the late Professor Dicey, which indeed is an unsurpassable model for expository analysis. Even apart from subject-matter, therefore, the book can be commended to the attention of budding doctors in the field

of politics. The make-up and printing of the book are further points in its favor.

EDWARD S. CORWIN.

Princeton University.

Our Federal Republic. By HARRY PRATT JUDSON. (New York: The Macmillan Company. 1925. Pp. vii, 277.)

Coming at a time when the zealous advocates of the child labor amendment resent any inquiry into the efficiency and appropriateness of federal legislation in dealing with this specific problem, and when the existence of an admitted evil somewhere within the national boundaries is regarded in many quarters as conclusive proof of the desirability of federal legislation upon the subject, this volume is a refreshing contribution. For Dr. Judson's thesis is not based on the assumption that the "federal equilibrium" as established by the fathers is sacrosanct, but on the more practical theory that the very nature of modern government, spread over territory so diverse in its interests and problems as is ours, requires the maintenance of an equilibrium between the national government, to which should be granted only those powers which are required by absolute necessity, and the liberties of local communities, in whose favor there should exist a strong presumption.

The importance of preserving this equilibrium is to be found, not in the fear of offending chambers of commerce by departing from constitutional dogma, but in the practical consequences that flow from a violation of the principle. These consequences are the overloading of the federal government, the inevitable growth of federal bureaucracy, the enforcement of an unnecessary uniformity over the people of different states where different ideals and needs are found, and a wicked prodigality in dealing with federal funds. "Each new assumption of Congressional power opened further vistas of possible approach to the federal treasury. The sources of federal income, too, are so remote from the ordinary taxpayer, are so insidious in their nature, that a grant from the United States is likely to seem like a free gift of the gods" (pp. 241-42).

The author's method of approach has been primarily historical. He has traced the tendencies to increase the powers of the federal government through the different amendments adopted and proposed, through judicial construction, and through legislative action. Special attention has been given to social legislation in the constitution, to the evils of pension legislation; and to the recent tendencies toward the federal

control of education. This collection of material will be invaluable to those interested in the problems of centralization. It is to be regretted that the distinguished author did not attempt a more comprehensive formulation of the principles of political science that are involved in this fundamental problem. Such a formulation, even though obviously tentative, would have been a most useful and stimulating contribution.

It is to be hoped that this volume will be widely read by those individuals who insist on viewing the problems of the formulation and enforcement of public policy as a problem of power rather than of method. In the minds of many, a constitutional amendment conferring the power to legislate regarding a particular problem is regarded as tantamount to its solution. Such persons are never worried about questions of method. The difficult and intricate problem of areas of legislation and administration about which we know so little, but which are of such practical importance, do not vex or bother them. If this volume attracts wider attention to the existence of such problems it will have rendered a most useful service.

ARNOLD BENNETT HALL.

University of Wisconsin.

Congress, The Constitution, and The Supreme Court. By CHARLES WARREN. (Boston: Little, Brown, and Company. 1925. Pp. vii, 308.)

The power of the Supreme Court and proposals for limiting the Court's authority have been subjects for comment almost since the judiciary began to function. For this reason, recent discussions of the same topic, and even definite plans for reducing the Court's power, should cause no alarm. The subject has been examined and re-examined. Lawyers, labor leaders, and others have had their turn. So it is time that we should have a fair and impartial treatment of the whole subject and a competent evaluation of those proposals that would restrict the present power of the Court. Mr. Warren's book is an attempt to meet this need. In the author's own words, "This book is an effort to supply the facts, so that each American may 'think for himself' or herself, and not rely on the say-so of politicians, labor-leaders, or social reformers, of whatever degree of eminence."

The book opens with the doctrine of judicial review. In a clear and concise manner, Mr. Warren shows that the framers understood this doctrine and that it was equally well appreciated by members of the early Congresses. Therefore all criticism of the Supreme Court on this score is beside the point. The greater portion of the book is devoted,

first, to showing that to make Congress final interpreter of its own power would be tantamount to a destruction of the Constitution; second, to require closer agreement than decisions reached by a five to four vote would lower the prestige of the Court. There are other chapters dealing with labor and the Supreme Court, the independence of the Court, and a final chapter which gives a brief summary of the grounds for those decisions of the Court holding acts of Congress unconstitutional.

It is unfortunate that this study is hardly what it promises—an unbiased portrayal of the facts. I doubt if any reader will lay the book down without a feeling that it constitutes for the most part a brief for the Supreme Court. It must be admitted, I think, that the subjection of all the ordinary authorities and organs of the government to a supreme instrument expressing the will of the people was a novelty among governments. But that it should come to pass that one of the agencies created by this instrument—the judiciary—should exercise, as incidental to its constitutional function of law interpretation, not only the function of defining the scope of legislative power but that of setting limits upon its own power as well, is certainly most extraordinary, if not unique. It is true, as Mr. Warren frequently points out, that those who denounce the Court greatly over-state their case. It is also true, I think, that Mr. Warren scarcely gives their criticisms and proposals the weight they deserve. When the author proceeds to consider in Chapter V the consequences of a change in the Court's power along the lines which the reformers propose, he errs, I believe, in over-stating his case to almost the same degree that the reformers of the Court err in overstating theirs.

One may well agree with Mr. Warren, for instance, that Congress should not be allowed the final say as to the constitutionality of its own acts, and still not entertain his dismal fears of the consequence of such a change. In this connection, the author says that "Congress could alter or abolish any of the powers of the President or of the Court, granted by the Constitution; alter or destroy any of the reserved powers of the states; deprive individuals of any or all of the rights guaranteed by the bill of rights. In other words, our entire system of government, as established by the Constitution, with its limitations of power and its checks and balances, will exist only so long and so far as Congress shall not choose to alter it." It might be suggested that Congress, like the Supreme Court, is bound by oath to uphold the Constitution, and that the mere fact that Congress "could" disregard the Constitution at will is not to say that it would choose to do so. Nor is the practice of permitting the legislature the function of judging as to the constitutionality

of its own acts in their relation to the Constitution unknown in a federal form of government of the non-parliamentary type.

This is not to underestimate the real worth of the study under review, but rather to point out its shortcomings in the matter of tone and objectivity. Like all of Mr. Warren's books, it displays great learning and wide research, and contains much information of value to students of political science.

ALPHEUS T. MASON.

Princeton University.

Sovereign States and Suits before Arbitral Tribunals and Courts of Justice.

By JAMES BROWN SCOTT. (New York: New York University Press. 1925. Pp. x, 360.)

This volume comprises six lectures delivered by Dr. Scott in the spring of 1924 at New York University. It is not a systematic study of the Permanent Court of International Justice, nor an argument, save indirectly, upon the controversial aspects of the problem of American adherence to the court protocol. It is rather an attempt to show from a careful analysis of American constitutional history and development how thoroughly steeped this country is in the tradition of settling disputes between states by arbitral or judicial process.

There is an introductory chapter on the nature of sovereign states in international law. Dr. Scott then studies certain phases of the evolution of the American constitutional system, showing that the American states at the time of the Revolution were independent in the international law sense, that under the Articles of Confederation they parted with enough of their complete independence to establish a permanent system of arbitration, very roughly analogous to the first Hague Court, and that later they set up an indestructible union which provided for the permanent judicial settlement of all disputes between the member states by the Supreme Court. The third lecture traces the development of methods for the peaceful settlement of disputes between states through good offices, mediation, commissions of inquiry, friendly composition, and arbitration, and indicates that judicial settlement by a permanent court is the next logical step. A fourth chapter deals with the Supreme Court of the United States and the character of its jurisdiction, particularly of an interstate and international character. This is followed by a survey of the cases which have come before the Supreme Court involving disputes between the states of the Union and the way in which the court has handled these cases.

Having laid this American background, Dr. Scott then proceeds to discuss the movement culminating in the establishment of the Permanent Court of International Justice. Of this he is in a position to speak with authority, inasmuch as he served as expert advisor to Mr. Root, who was a member of the Advisory Committee of Jurists which drafted the substantial outlines of the present court statute and protocol. He emphasizes the important service which Mr. Root performed in suggesting the method finally adopted for the selection of the judges of the Permanent Court. The chapter is rounded out with a general discussion of the organization and jurisdiction of the court.

The book contains nine appendices comprising several American constitutional documents as well as various others of current international importance such as the draft scheme of the advisory committee of jurists for the World Court, the statute creating the tribunal, and the protocol actually establishing it. The third appendix lists all the cases between the states of the American Union, or between the United States and the states, which have come before the Supreme Court.

The book leaves upon the reader exactly the impression which Dr. Scott undoubtedly wished to make upon his hearers when he delivered the lectures, namely, that American participation in the Permanent Court of International Justice is demanded by all the traditions and experience of this nation in settling the numerous disputes which have arisen between states. American failure to join would have been a betrayal of the past. This is not the thorough and comprehensive book on the World Court which we wish that Dr. Scott would give us, but it forms a suggestive and valuable background for such a work.

ROBERT E. CUSHMAN.

Cornell University.

The United States Senate and the International Court. By FRANCES KELLOR and ANTONIA HATVANY. (New York: Thomas Seltzer. 1925. Pp. xix, 353.)

The interest and timeliness of this volume is not destroyed but rather enhanced by the action of the Senate in approving adherence by the United States to the Statute of the Permanent Court of International Justice. For in the first seventeen of the twenty chapters the Court itself and its organization and activity are discussed with only incidental reference to the question of American adherence. And the concluding chapters may still be read with interest to discover whether foes' fears or friends' fond hopes are being borne out in the event.

When so much as been said, however, one has a more difficult task in accepting the book on the grounds of soundness and value. The evident fact is that the author was carrying on a very unpleasant struggle through all her chapters to avoid coming out and damning the whole outfit—League and Court, Covenant and Statute. The result is twofold. First we find many bad things said about the Court, followed by grudging admission that the United States does not propose to agree to these things anyway. Second, we find many bad things said which are simply not true. Thus, it is not true in any real sense that the "Statute maintains the principle of national judges," or that "whatever obligatory jurisdiction the Court possesses under its Statute is derived from the optional clause," or—numerous other things. In her effort to discover defects in the Court the author has pressed too far in many cases to remain within the bounds of accuracy. And the constant fears for the safety and protection of the United States seem either unreal, argumentative, or ridiculous, in face of this—as is admitted, and even emphasized—weak and inadequate Court and League. Yet the author advocates American adherence!

The truth is that we do not seem to be able to prevent the mob complex toward the League which we had foisted on us in 1921—after, not during but after, the election of 1920—from making ninnies of us. The League and the Court have defects and deficiencies, heaven knows! But they are defects and deficiencies of weakness and youth, not of power or viciousness. To go upon an opposite assumption is to be victimized by one's own imagination and somebody else's exploitation.

PITMAN B. POTTER.

University of Wisconsin.

Great Britain and the American Civil War. By EPHRAIM DOUGLASS ADAMS. (New York: Longmans, Green and Company. 1925. Two volumes. Pp. ix, 307; vii, 340.)

The Diplomatic Relations of Great Britain and the United States. By R. B. MOWAT. (New York: Longmans, Green and Company. 1925. Pp. xi, 350.)

John Slidell. By LOUIS MARTIN SEARS. (Durham, North Carolina: Duke University Press. 1925. Pp. 252.)

Professor Adams, of Stanford University, has undertaken to give a definitive account of Anglo-American diplomacy during the Civil War. Rarely has modern diplomacy been studied from such satisfactorily complete materials, for Mr. Adams has used not only the manuscript

archives of the British Foreign Office, but also private papers of the families of Russell, Lyons, Palmerston, and Gladstone. He has, consequently, left very little to be desired in his consideration of the rôle of the statesmen. He has narrated, following up the researches of the late Charles Francis Adams, the details of cabinet discussion and individual opinion at the most critical points of the war; and what he has told does not seem likely to be subject to further revision. Mr. Adams demonstrates, for example, the entire propriety of the much-attacked British proclamation of neutrality; he shows the effect on English statesmen of Seward's pugnacious attitude in 1861; and he explains with perfect clarity wherein the "peril of British intervention" really lay and at what times the matter came up. One conclusion in this connection is very certain: the danger of interference (granted the absence of great Confederate military successes) did not and could not recur after October, 1862, however spectacular might be the American field days in the House of Commons. In general, Mr. Adams convinces the reader that British policy was honest and straightforward as a whole, and firmly based, not on sentiment, but on considerations of the highest expediency. On one question alone would we like more light than the author casts, for he does not give much help on the problem of how far continental politics and English suspicions of Napoleon III may have influenced the cabinet's attitude toward American affairs.

Mr. Adams has made his book, he tells us, "primarily a study in British history." As such, it includes an important analysis of public opinion which demonstrates not only the great significance of the proclamation of emancipation, but that the controlling factor in the sympathies of most Englishmen was preoccupation with the fundamental problem of political reform in England. Reformers favored the North, conservatives of both parties the South. This part of Mr. Adams' work is less satisfactory than the purely diplomatic, for he has not familiarized himself thoroughly with the press, politics, and society of the period; but although as a descriptive picture of British opinion it is inadequate, the analysis is unquestionably sound.

Professor Mowat, a scholar to whom diplomacy is no new field, has filled a gap in writing a narrative account of Anglo-American relations from 1783 to 1914. His aim in this work is to set forth the process by which unsettled questions—matters provocative of friction between the United States and the mother country—have been gradually cleared away, until in 1914 the slate was practically wiped clean. The author is all suavity and good humor; his cast includes no villains and a number

of heroes, and he wisely eschews any discussion of phobias and manias in Anglo-American history.

The work is, however, disappointing. Mr. Mowat has combined the "apparatus of scholarship" with the matter and manner of the story teller; and the reader, seeing his formidable but sporadic citations of manuscripts and reading his pleasant brief biographies, his digressions and ingenuous *obiter dicta*, cannot help wondering what it is all about. Of really fresh light on the subject there is little, unless in regard to matters of an episodical nature, while the whole treatment has an air of superficiality which is unfortunate. The casual reader can glean much; but the specialist will hardly turn to a work which devotes a page to the theatre (p. 40) and a third of a page to F. J. Jackson's mission to Washington in 1809 (p. 50); which ignores the fact that the Clayton-Bulwer treaty has been sharply criticized from the American point of view; which condemns Lord Russell without giving evidence; and which evinces palpable ignorance of American political history. Mr. Mowat gives an impression that he has dressed his window, but forgotten, in his haste, to stock his shelves.

The name of John Slidell, as much as that of Lincoln or Seward, is associated by most Americans with the Civil War. Slidell's part in the Trent affair was strictly a passive one and leaves only a lingering wonder as to why the books state that of all Confederates he was one of the most hated. This is a point which his biographer does not trouble with; nor does an outline of Slidell's career show much cause for the feeling—if it existed. Slidell's public life falls roughly under four main topics—his rise to domination in the Democratic party of Louisiana; his rôle as one of the inner powers of the national Democracy in the fifties, including his part in the election of Buchanan to the presidency; and his two unsuccessful diplomatic adventures, in Mexico for Polk and in France for the Confederacy. Professor Sears has realized that his subject was, after all, a secondary figure, and he has rigidly avoided adding any "times" to the "life." One may be permitted to regret that this is so, although in the complete absence of personal papers it would have been difficult to go far. But the fact should be recorded that Slidell's local position in Louisiana is almost untouched in the biography; and that the Warwick phase when Slidell made Buchanan president is proved as a fact rather than described as a process. The author brings out excellently the significance of the Mexican mission and shows how it fits in with a favorable interpretation of Polk's policy. The chapter on Slidell at the court of Napoleon III is merely a threading together of

parts of Slidell's letters to Mason and does not pretend to be an account of Franco-Confederate diplomacy. All the significant parts of the book have been previously published. Both Mr. Sears and Mr. Adams have curiously ignored the fact that the diplomatic correspondence of the Confederacy was published by the United States government in 1922 (*Official Records of the Union and Confederate Navies in the War of the Rebellion*, Series II, Vol. III) in a large volume composed mainly of the famous "Pickett Papers." Its interesting contents have not yet been by any means exhausted.

HENRY DONALDSON JORDAN.

Dartmouth College.

Oriental Interpretations of the Far Eastern Problem. By MICHIMASA SOYESHIMA and P. W. KUO. (Chicago: University of Chicago Press. 1925. Pp. 220.)

Occidental Interpretations of the Far Eastern Problem. By H. G. W. WOODHEAD, JULEAN ARNOLD, and HENRY KITTREDGE NORTON. (Chicago: University of Chicago Press. 1925. Pp. 253.)

These small volumes contain twelve lectures delivered at the University of Chicago on the Harris Foundation in 1925. They present what is probably the most helpful, easily accessible, recent survey of conditions in the Far East. The training and point of view of each lecturer must be taken into consideration, and then it will be found that one may supplement or correct the statements of the other. Count Soyeshima is the son of a late Japanese diplomat and statesman, and himself a graduate of Cambridge University. He is well known as a publicist in Japan, and his articles on political and diplomatic affairs are features of the leading reviews. His three lectures deal with political, economic, and social aspects of modern Japan; Japan's policy toward China, Siberia, and Korea; and Japan's relations with the United States. Dr. P. W. Kuo is a prominent educator, a doctor of Columbia University, and now president of Southeastern University, at Nanking. His lectures cover the same ground as Count Soyeshima's, with China rather than Japan as the theme. Mr. Woodhead, an Englishman, is one of the best-informed foreigners in China. As editor of *The Peking and Tientsin Times* and of the invaluable *China Year Book* he has been in a position to follow the march of events in that troubled country with unusual sources of information. Mr. Julean Arnold has been for some years the American commercial attaché at Peking and is well qualified to speak of trade conditions and opportunities, while Mr. Norton is an American

journalist who has given special attention to conditions in Eastern Siberia.

As an interpretation of conditions in 1925, the most valuable lectures are those of Mr. Woodhead. Dealing with the Chinese republic, the present state of China, extraterritoriality, and China's foreign relations, he surveys with remarkable clearness the chaotic conditions which have prevailed in China since the birth of the alleged republic. He deals with conditions as they are. Dr. Kuo dwells upon forces which may bring order out of chaos. The latter minimizes the effects of the constant civil strife. "Hence," he says, "the troubles of recent years, though they loom large in the chronicles of the day, do not actually reach very deeply into the life of the Chinese people." But Mr. Woodhead's survey indicates that few of the unhappy people have escaped the havoc wrought by these feudal rivalries. "It is much easier to attribute the sufferings of the Chinese people during the past ten years to these causes [foreign aggressions] than to admit the truth, which is that most of their misery has been due to the action of a noisy minority in foisting upon China a system of government for which she was not ready, which the vast majority of her people do not yet understand, and which, as long as the hearts of the people remain unchanged, could only have the effect of leaving them at the mercy of men more unscrupulous, more corrupt, and more intolerant of criticism or opposition than the worst officials of the Manchu régime."

Count Soyeshima interprets Japanese actions and policies and answers what he considers to be the current misunderstandings in the West. Mr. Arnold surveys China's economic resources, but in too brief a space to make any striking contribution. While Mr. Norton, summarizing the work of the Russians in the Far East, contemplates "the possibility—even the probability—of another great war. It will start, at least, in the East, and it will begin, not between Japan and America, but between Japan and Russia." A few errors and unsubstantiated opinions have been noted, but they detract little from the value of the addresses.

PAYSON J. TREAT.

Stanford University.

The Problem of Government, with Special Reference to American Institutions and Conditions. By CHESTER C. MAXEY. (New York: Alfred A. Knopf. 1925. Pp. xvii, 497.)

In an age of "Essentials" and "Outlines" here is still another attempt at a satisfactory introductory "orientation" course for political science;

"a broad survey of the basic theories and principles of governmental organization and procedure in the leading states of the world," together with preparation for "practical citizenship." Mr. Maxey thinks that "it is possible by careful selection and condensation, by emphasizing only fundamental and important facts, and by skillfully combining the concrete and the abstract, to cover in a single course of study all of the essentials both of general political science and of American government, thus combining intellectual orientation with preparation for citizenship in a very fruitful and popular manner." All this in a text designed for use in the first and second years of college.

There are seven parts to the work: "The General Principles of Government" (76 pages); "The Organization and Operation of Government" (77 pages); "The National Government of the United States" (64 pages); "State Government in the United States" (43 pages); "Local Government in the United States" (42 pages); "The Citizen's Job" (56 pages); and "Contemporary Problems" (112 pages).

Ternesness is not Mr. Maxey's *forte*; consequently elimination is the method utilized to cover his very extensive field. He leaves out whatever he wants to. A teacher not of the "new school" will doubtless wonder why in the description of the national government of the United States six pages are devoted to presidential powers while the powers of Congress are omitted entirely. The book, however, is written, not for the professor, but "for the student alone"; and we fear that it is true that many so-called "students" of the earlier college years, and perhaps even some instructors, will eagerly welcome the omission of that difficult subject, "Congressional Powers." The index shows that Congress is disposed of as follows: "Congress—as a federal legislature; party system in; possible reforms in procedure and organization of; sessions of. (The numbers of the pages cited in the index in no case fit the proper pages in the text.)

The author is not "concerned with academic abstractions," "juristic fictions," or "professional verbiage." He feels that he "need not even pause to note the mystic and more or less imaginary attributes, such as sovereignty, continuity, personality, etc., which certain minds have accorded to the state." So we find him interested in such concrete realities as monism, pluralism, guild socialism, communism, anarchy, the pragmatic conception of state functions, etc. All of which seems to indicate that it is merely a matter of taste as to what individual professorial obscurantism is to obfuscate. Mr. Maxey's selections, opinions, and judgments are Mr. Maxey's, and there is no reason to

quarrel with them as such. The reviewer, however, would raise the question: Why the title of the book, *The Problem of Government*?

E. F. HUMPHREY.

Trinity College.

BRIEFER NOTICES

It is good news for students of government and history that the *American Year Book*, which suspended publication in 1919, has been resumed. The new *American Year Book*, 1925 (pp. xxxv, 1158) is published by the Macmillan Company under the editorship of Professor Albert Bushnell Hart and Mr. William M. Schuyler and with the co-operation of a supervisory board representing forty-five learned societies of America. It contains about one third more space than the volume for 1919 and a much larger range of topics, and the number of contributors has been increased from 118 to 256. In the field of government we find among the contributors such well-known persons as Frederick A. Cleveland on the budget system; Milton Conover on personnel and rules of Congress; R. T. Crane on city planning; Charles G. Fenwick on international negotiations; Arthur N. Holcombe on the national government; Charles Kettleborough on electoral laws; J. M. Mathews on state government; H. L. McBain on the federal judiciary; Parker T. Moon on international relations; H. S. Quigley on Oriental relations; Delos F. Wilcox on public utilities; and Clinton Rogers Woodruff on civil service and municipal government. The *American Year Book* is not a mere almanac of statistics and concentrated information, but a general survey of public affairs reviewed in narrative fashion and supplemented, where necessary, with tables and statistics. For example, the section on the national government has about forty-five pages of narrative exclusive of the tables and statutes. The volume is a mine of information, carefully digested and well arranged. As stated in the preface, the work was made possible largely through the generous interest of Mr. Adolph Ochs.

The first volume of a new series of *Political Science Classics*, to be published by Knopf under the general editorship of Professor Lindsay Rogers of Columbia University, is *Chinese Political Philosophy* (p. 135), edited by Professor W. S. A. Pott, of the University of Virginia. The aim of the series is to make available, in English and in convenient form, many important writings, English and foreign, which represent characteristic stages in political thought and which are at present not within easy reach of the scholar, either because they are out of print or because

they have never been translated into English. It is also intended to include reprints of some of the more familiar classics. The enterprise promises valuable assistance to the student of political thought and institutions. A handy and attractive format has been selected. Professor Pott's book consists of about twenty pages of translations of carefully chosen passages from the Chinese classics, preceded by a much longer independent essay by the editor on the nature and characteristics of Chinese political thought. This allotment of space is welcome, in view of the inevitable difficulty of bridging the gap between Oriental and Western thought, and the resulting need of full commentary and interpretation to accompany the text presented. For this task of interpretation Professor Pott is peculiarly fitted by his Chinese heritage and his long residence in the Orient. The book opens an illuminating and inviting vista into a field of political thought and development which has too long remained *terra incognita* to students of politics.

The Chief Sources of English Legal History, by Percy H. Winfield (Harvard University Press, pp. ix, 374), is a critical bibliography based on lectures delivered in the Harvard Law School in 1923. Of the nine chapters—Equipment for Research in Legal History, Existing Bibliographical Guides, Sources of Anglo-Saxon Law, The Influence of Roman Law on English Law, Statutes, The Public Records in General, Case Law, Abridgments, and Textbooks and Books of Practice—all are extremely useful to a practitioner or to a beginner of the study of English legal history, but the last three will probably be found the most valuable to more advanced students on account of their discriminating discussions. The author, on the whole, accepts Maitland's view that the Year Books are not the work of public officials. His account of their contents is brief but valuable. The section on the reporters is still shorter. To the list of Guides included in it should be added C. C. Soule's useful *Lawyers' Reference Manual*. The most valuable part of the book is the critical comparison of the great abridgments, particularly Fitzherbert and Brooke. The last chapter gives useful critical estimates of all the existing editions of the classical treatises and older textbooks. The 1780 edition of Glanville, which, as the author merely says, is attributed in Clarke's *Bibliotheca Legum* to John Wilmot, was in reality the work of John Rayner, whose name is signed to the preface. The characterization of *Fleta*, though given in the words of Maitland as "little better than an ill-arranged epitome of Bracton," hardly does that book full justice. The first editor of Sir Matthew Hale's *History*

of the *Pleas of the Crown* was Sollom, not Solomon, Emlyn. Chief Justice Hengham's alleged malfeasance might possibly have seemed a little less "puzzling" had the author consulted or cited the volume of *State Trials of Edward I* edited for the Royal Historical Society by T. F. Tout and Hilda Johnstone in 1906. But the errors are negligible, and the omissions are few beyond those made necessary by the book's general scope and character.

In *The Genesis of the Constitution of the United States* (Macmillan, pp. 260) Mr. Breckinridge Long has given the student of American government and history a useful analysis of the written plans of government antecedent to the Constitution, their political and social background, and a detailed explanation of the analogies and precedents supplied by each. The plans covered include the Mayflower Compact; the colonial charters; the Articles of the New England Confederation; the plan for union presented by Colonel Nicholson, president of Virginia, to the Commission of Trade and Plantations; the plans of union formulated by William Penn, Charles D'Avenant, Robert Livingston, the Earl of Stair, Daniel Coxe, the Reverend Mr. Peters, and Benjamin Franklin; the Albany plan; the Hutchinson plan; the Stamp Act Congress; the Continental Congress; the Declaration of Independence; the state constitutions; the Articles of Confederation; the Annapolis convention. The author shows how some of these documents, such as the charters and state constitutions, furnished precedents for the internal structure of the American national government and how others, such as the various plans of union, the Articles of Confederation, etc., supplied precedents for coöperation and federation. Among the numerous interesting theories advanced by Mr. Long, one is that the New England Confederation was "an expression of the ideas which the men in that region had absorbed of the government in Holland. They learned of the federation of Zealand and Holland in 1575. They heard of the reconstructed articles of coöperation of 1576. They saw the operation of confederate government and learned the principles of federal jurisprudence. When they emigrated they took to America the ideas which had been part of their lives in Holland" (p. 57). A valuable feature of the book is an appendix containing the text of the Constitution with numerous cross references to the earlier documents.

An entertaining as well as instructive book is *Builders of the Empire* (pp. 297) by J. A. Williamson, published by the Oxford University Press. Twenty men have been included, among them Cabot, Drake, Clive,

Cook, Wilberforce, Livingstone, and Cecil Rhodes. The book is full of well chosen illustrations and is especially to be commended as furnishing authentic history made palatable for younger readers as well as for those who peruse this periodical. Another book on English history, parliamentary history this time, is D. C. Somervell's attempt to treat *Disraeli and Gladstone* impartially. His book by that title (George H. Doran Company, pp. 314) is a summary and comparison of the lives and works of these two men as found in what he calls "those two monumental biographies, *The Life of Gladstone* by Lord Morley and *The Life of Disraeli* by Mr. Monypenny and Mr. Buckle." The comparison is pleasantly and effectively done, but both the heroes lose something of the glamour and splendor accorded to each in his own biography. "Neither Disraeli nor Gladstone was privileged to lead a great revolutionary movement and to associate his name with a single immortal event. Disraeli and Gladstone figure, in the last analysis, as agents rather than principals, as actor-managers rather than as authors of the political dramas associated with their names." A third biographical study dealing with an important figure in British politics is *Joseph Chamberlain and English Social Politics*, by Elsie E. Gully (Columbia University Studies in History, Economics and Public Law, vol. cxxiii, no. 1, pp. 340). It is Miss Gully's conclusion that "Mr. Chamberlain became the leader of a new school of Radical reform, which emphasized belief not only in thoroughly democratic institutions but also in the use of those institutions for the social welfare of the people he was a power among the Liberal masses, and the influence which he left with them became a part of their conception of the Liberal policy of the future. An apt illustration of this abiding influence is found in a critic's comment that Chamberlain was a sort of John the Baptist of Lloyd George."

Henry P. Seidemann's *Manual of Accounting and Reporting for the Operating Services of the National Government* (Johns Hopkins Press, pp. xxii, 399) is the latest volume in that very thorough and substantial series of *Studies in Administration* prepared by the Institute for Government Research. The book is intended as a practical guide for superior officers and for employees having to do with the conduct of the internal business operations of a government service. It describes in detail an accounting procedure which is applicable to most of the government bureaus. It includes over sixty forms recommended for the keeping of accounts. Although primarily a technical treatise for government

officials, the chapters dealing with "Principles of Accounting Procedure" and "Budget Procedure" are of interest to students of administration. The latter chapter gives one of the most satisfactory brief accounts known to the writer of the procedure employed by the national government in the preparation of the budget for presentation to Congress, the procedure followed by Congress in voting funds, and the present system of controlling the expenditures authorized. Emphasis is placed on the necessity of a proper system of accounting in order to collect the data needed by the President and Congress in budget making and control and as a means of supplying the public with adequate information.

An Introduction to Public School Finance, by Benjamin Floyd Pittenger (Houghton Mifflin Company, pp. xvi, 372), like the other Riverside Textbooks in Education edited by E. P. Cubberly, is based upon sound principles of educational and governmental policy and is of timely interest. The author points out that with the growth of expenditures the schools, like other public services, have been brought face to face with a financial crisis. After elaborating upon this theme under the heading of "The School Finance Situation," the author proceeds to outline the problems of school finance, especially the local problem of improving the financial management of school systems. The solution of these local problems involves six specific reforms (to each of which the author devotes a chapter) as follows: (1) schools must adopt a business-like procedure of budget making; (2) continuous studies must be made of comparative unit-costs in education to serve as a basis for evaluating the expenditures of any local school; (3) a simple and uniform system of accounting should be adopted; (4) a sound debt policy must be developed; (5) a proper division of authority in financial administration between the school departments and the regular governing bodies must be worked out; and (6) the schools must adopt truthful but effective methods of publicity. In the section on the state problem the author discusses educational inequalities and the need for securing greater equity in methods of public school support; the relative importance of state aid, stimulation, and equalization; the apportionment of state funds; and sources of school revenue. As a whole, Mr. Pittenger has given us an interestingly written and practical discussion of the new field of public school finance.

The Follies of the Courts, by Leigh H. Irvine (Times-Mirror Press, pp. 273), is written to arouse popular demand for the rectification of the conditions existing in the administration of criminal justice in the

United States in general and in California in particular. The title, however, is calculated only to damn the book in the eyes of the scientist. If, however, the scientist will take the reviewer's word and pass by the title, he will be both flattered and informed by the book's contents. The volume most appropriately opens with a publisher's foreword which informs us that the author is a lawyer who, as a newspaper reporter, has witnessed "some of the most celebrated trials," in most of the common law jurisdictions. The author very rightly calls upon the American states to follow Great Britain and her colonies in scrapping antiquated criminal court methods. He points out the great delays in American criminal justice, and the probability of a criminal escaping punishment, as a result not only of inefficient police but also of dishonest lawyers and experts, of complicated and technical rules, and of the interference by politicians or by sentimentalists, of whom, in the United States, there is always at least one ready to apply for probation, parole, or pardon for the most hardened and unworthy criminal. The author is, however, not blind to the conditions of his problem. He suggests no panacea, nor does he hold out any hope of a swift remedy. His appeal is for sufficient popular interest in the problem to call forth funds for scientific investigation. This need is stressed throughout the entire book and his specific recommendations for an investigating foundation for California is one that could well be followed elsewhere in the United States.

(A. G. L.)

Two recent and sharply contrasted discussions of the public aspects of electrical power developments are the report of the Giant Power Survey Board (pp. 480) to the General Assembly of Pennsylvania, February, 1925, and *Niagara in Politics* (Dutton, pp. 255) by the late James Mavor, emeritus professor of political economy in the University of Toronto. Professor Mavor's book is a critical account of the Ontario hydro-electric commission, which he holds has become a political oligarchy that has dominated the government, controlled elections, quieted the public through propaganda, and in considerable degree stifled free democracy. He does not go into a detailed discussion of profits and losses, but indicates his opinion that the eventual economic loss may be very considerable. The Pennsylvania Giant Power Report proposes a plan for the organization of giant power companies under strict public control, carried out by the states individually and by means of compacts between different states approved by Congress. The Survey Board report is published, along with a message of Governor Pinchot to the

General Assembly, a general report by Morris L. Cook, director of the survey, six technical reports, and a series of appendices.

Beyond Hatred: The Democratic Ideal in France and America, by Albert Leon Guérard (Scribner, pp. xx, 298), is a worth-while series of essays on such topics as political democracy; the dictatorship of the middle class in France; the presidency of the French Republic; democracy and race; democracy and language; and the 'new history.' The author does not regard the orthodox definition of democracy as "government of the people, by the people, and for the people" sufficient for his purpose. "Democracy," he writes "has too often been degraded to the level of a mechanism and indeed of a machine: it is an ideal." From this point of view he, therefore, defines democracy as "the spirit which will not suffer hatred to live." The book makes a strong plea for wiping out those racial and national prejudices which tend to foster hatred and are to that extent undemocratic. The book is made interesting by a wealth of concrete examples, a freshness of style, wit, and originality of ideas.

The Carnegie Institution of Washington has published Graham H. Stuart's excellent treatise on *The Governmental System of Peru* (pp. 156). There is a short introductory chapter on the constitutional development of the country, but the book is in the main occupied with the new constitution adopted in 1920. This constitution provides for more stringent and effective guarantees for the individual, a clearer working relationship between the legislative and executive branches, and a greater decentralization. This document is called by Dr. Stuart "an instrument of government which theoretically is all that can be desired." Its terms, however, are not altogether complied with, especially the extreme power which the president exercises and which the author believes to be due to historical tradition and custom. Under the existing circumstances he thinks it will be almost impossible to develop a more parliamentary system of government. The present autocratic government under President Leguia has, at any rate, brought peace and prosperity to the country. Municipal government he finds in a healthy condition, the greatest desire for change being for more local autonomy. The mayor and other executive officers are members of the city council and are elected by it to their respective offices, thus merging the local legislative and executive branches of government.

Charles Grove Haines and Bertha Mosher Haines have prepared a revised edition of *The Principles and Problems of Government* (Harper,

pp. xvii, 662) which in its original form has had a wide use in American colleges. The book is not merely a reprint but has been thoroughly revised by bringing recent developments down to date, by the addition of references and the inclusion of a number of new sections on such topics as judicial review; the cabinet and presidential systems of government as tested by the strain and stress of war and reconstruction; recent changes in state and federal budgetary procedure; the problems of constitution-making in the new states of Europe; and the movement for administrative decentralization. An entirely new chapter on international organization and administration has been added, covering such topics as methods of conducting international negotiations, the Permanent Court of Arbitration, the League of Nations, the World Court, and the outlawing of war. The writer had the pleasure of reviewing the book for this journal when it first appeared and of pointing out its decided usefulness which, in his opinion, has been made even greater by its careful revision.

After having taught the subject for twenty years, Professor John Lewis Gillin has produced an exhaustive textbook in *Criminology and Penology* (Century, pp. xiv, 873). This painstaking examination is concerned chiefly with the situation in the United States, and on the whole constitutes a sober but damning indictment. We are the most criminal people on earth and our criminality is very possibly increasing. On the other hand, our methods and machinery for dealing with misdoing are inferior; police, courts and prisons, jails and reformatories—none of these will bear examination for efficiency either in deterrence or in reformation. The book is objective, straightforward, and convincing. A rather large number of cases have been included, and the bibliographies of books and magazine articles are generous.

Dollar Diplomacy: A Study in American Imperialism, by Scott Nearing and Joseph Freeman (B. W. Huebsch and the Viking Press, pp. xv, 353), is an attempt to prove that recent American diplomacy has as its sole purpose the rendering of assistance to American investors abroad. The central theme and tenor of the book are indicated by the following extracts: "A summary of government coöperation with American finance in Latin America would include the prevention of filibustering inimical to American financial interests, and the helping of filibustering advantageous to American financial interests; . . . the financial annexation of Central America and Cuba, where protectorates of one sort or another have been established; . . . the fomenting of

revolution in Panama, Honduras, and perhaps Mexico; . . . the active solicitation of loan business for New York banking houses; and the carrying on of a ceaseless campaign on behalf of the oil interests against the attempts of Mexico to nationalize its natural resources."

The fifth volume presented by the Institute of Economics in its series of investigations in international economic reconstruction is a study of *The Ruhr-Lorraine Industrial Problem* (Macmillan, pp. xx, 328) by Guy Greer. The author, a coal expert with the Peace Conference and later assistant director of the Coal Bureau of the Reparations Commission, writes with knowledge and authority. He treats the Ruhr-Lorraine situation as typical of the international difficulties caused by the still-continuing interruption of that interchange of goods among nations which constituted pre-war normality. The influence of the reparations requirements and of political factors is well considered and a successful effort to view the situation as with the eyes of opposing groups is made. The book constitutes a valuable contribution.

The latest Hart, Schaffner, and Marx Prize Essay in Economics is George Ward Stocking's *The Oil Industry and the Competitive System* (Houghton, Mifflin, pp. xii, 323). The conclusion of the book, seemingly well confirmed by the evidence, is that competition in the oil industry, in production, in transportation, in refining, in marketing, means waste. To some extent this waste is a concomitant of competition as a system, and may, in Mr. Stocking's opinion, be offset by competitive advantages; more often the wastes are due to conditions special to this particular industry, and this leads the author to advocate a comprehensive system of federal regulation and control. A special chapter treats of Teapot Dome and our other national petroleum lands.

Principles of Railway Transportation, by Eliot Jones (Macmillan, pp. xxv, 607), is an elementary textbook. It is logically arranged and clearly written. There is a general introduction, a financial introduction, an historical introduction; then follow numerous chapters dealing with rate-making, railroad legislation and judicial history up through 1923, operation during the World War, and problems of reconstruction. The chapter on government ownership is thorough and of considerable interest, in spite of the fact that it consists largely of quotations from other writers. There is a very fair presentation of both sides of the question. While the author states that he "holds his own views in the background" in the interest of such fairness, one may hazard the opinion that he is opposed to public ownership and operation.

A preliminary report on the *Personnel Problem in the Public Service* (pp. 44) by a conference committee of the National Municipal League, Governmental Research Conference, National Civil Service Reform League, National Assembly of Civil Service Commissions, and Bureau of Public Personnel Administration, has been published in the January, 1926, number of *Public Personnel Studies*. This discusses the magnitude of the personnel problem, the functions of the personnel agency, the methods of selection and organization of the public personnel agency, the law relating to public personnel agency, and the public personnel agency's work from the view-point of the operating officer and the taxpayer, and also includes a series of statistical tables and a draft of an act to create a state (or city) employment commission.

The National Industrial Conference Board has published a study of the *Cost of Government in the United States* (pp. 138) supplementing its previous reports on public taxation. The latest report includes data for the year 1924, showing a decrease in the taxation and expenditures of the national government from the preceding year, but a continued increase in the expenditures of state and local governments, as well as a further increase in state and local indebtedness. Comparisons are also made with conditions in 1913. It would be of interest if these comparisons were extended to the proportionate taxation in the years following the Civil War with those of the present period following the World War.

The Historical Foundations of the Law Relating to Trademarks, by Frank I. Schechter (Columbia University Press, pp. xxviii, 211), is the first volume in a new series entitled "Columbia Legal Studies." It is also the first dissertation submitted and printed for the degree of *Juris Doctor*, newly created at Columbia. The volume is well written and displays great research ability. The material presented serves to explain several rules of law formerly considered inconsistent and anomalous. It is a study which should interest not only lawyers, but also political scientists, historians, and economists.

The Rise of Modern Industry, by J. L. and Barbara Hammond (Harcourt, Brace and Company, pp. xi, 281), has accomplished its professed aim—that of giving the general reader an interesting account of the Industrial Revolution, its causes and results. Great stress is laid upon the confusion and disorder produced by the Industrial Revolution and its emphasis on profits. "The curse of Midas was on this society; on

its corporate life, on its common mind, on the decisive and important step it had taken from the peasant to the industrial age." Then came the new spirit of social reform. "The Industrial Revolution must be seen in a perspective of this kind; as a departure in which man passed definitely from one world to another, as an event bringing confusion that man is still seeking to compose, power that he is still seeking to subdue to noble purposes."

Delos F. Wilcox's *Depreciation in Public Utilities* (pp. 112) is the second book in the National Municipal League Monograph Series. Dr. Wilcox is of the opinion that there has been much confusion in depreciation theories and errors in practice, with the result that the valuation of public utilities as fixed by the utilities' inspection experts is unsound for rate or purchase purposes. He favors a proper tying together of "annual" and "accrued" depreciation, with emphasis on "accrued" depreciation, and outlines a method for arriving at the latter. Emphasis on annual depreciation pushes up the operating expense allowance and is therefore favored by the utilities; accrued depreciation cuts down the valuation or rate base and therefore is minimized or forgotten.

The Historian and Historical Evidence, by Professor Allen Johnson (Scribner, pp. 179), discusses certain basic problems of historical criticism. The topics treated are about equally divided between questions arising out of the nature of evidence and the subjective processes and attitudes through which the mind of the historian passes during his task of synthesis. The brief space at the author's command compels him to suggest rather than to describe or to construct, more especially as he is an avowed partisan of no one school of history. The best chapter is that on "The Development of Method"; the later ones seem somewhat sketchy. The examples given are for the most part striking and well-chosen, and the book as a whole is suited to guide an intelligent student into the labyrinth which surrounds independent historical composition.

Social Origins and Social Continuities, by Professor Alfred Marston Tozzer of Harvard University (Macmillan, pp. xix, 286), is an important addition to the growing list of works on anthropology which contain valuable material for the student of political science. Professor Tozzer's book, which presents a course of lectures delivered before the Lowell Institute of Boston, is especially valuable because it deals primarily with the social and political aspects of the life of primitive peoples. The chapter on "Government, Law, and Ethics" contains convenient short summaries of the governments of the Iroquois Confederacy, the Kabyles

of North Africa, and Peru under the Incas. A bibliography is appended which supplies a useful key to many recent special studies.

Histoire générale du droit français des origines à 1789 à l'usage des étudiants des Facultés de Droit, by J. Declareuil (Sirey, Paris, pp. 1076), is an excellent book of its kind, well planned, well proportioned, and scholarly. It is fuller than the classic volume of Esmein and much superior to the compilation of Brissaud. From an historical point of view, such treatments are necessarily defective, in that they must cover great periods systematically, with insufficient allowance for the changes going on in a space of time like the eight hundred years of Capetian royalty. M. Declareuil, however, has the training of an historian as well as that of a jurist, and he manages to give some notions of the general background of the institutions which he describes. (C. H. H.)

The Psychology of Social Institutions, by Charles H. Judd (Macmillan pp. 345), emphasizes the fact that social influences are of the highest importance in determining the character of human thought and conduct. Each chapter is made up of two parts, one a description of certain typical social institutions such as exchange, money, language, religion, and government, the other a discussion of the mental processes related to the institutions described. The chapters of special interest to students of government are "Individual Emotions and Social Institutions" and "Government and Justice." In the latter chapter Professor Judd's idea of justice is much the same as Plato's. He says: "The purpose of such governmental machinery as is evolved is to adjust relations within the group and between groups. The conception which modern society has of the desirability of properly controlling these relations is the conception expressed in the word 'justice'."

The lectures given by Professor Henri Pirenne at various American universities three years ago have been brought out by the Princeton University Press under the title *Mediaeval Cities: their Origins and the Revival of Trade* (pp. 249). The survey covers, rather broadly, the era from the seventh to the twelfth century, with special reference to social and economic organization in the towns. New emphasis is given to the political and commercial results of the Mohammedan conquests. The book is written in a lucid style and from a new point of view. A useful bibliography is appended.

The City, by Robert E. Park, Ernest W. Burgess, and others (University of Chicago Press, pp. 239), is an interesting sociological study of

human behavior in the urban environment. Various chapters discuss the physical organization of the city, its growth, its occupations, and its mentality. All are stimulating and suggestive. There is an excellent bibliography which contains much good material with which most students of municipal government have been altogether too unfamiliar.

The Life of Benito Mussolini, by Margherita G. Sarfatti (F. A. Stokes Company, pp. 352), is prefaced by Mussolini's own words: "My life is presented in it in the form of a succession of events, in the form of a development of ideas. In essence, it is no great affair—my life." The events include his early home life, his years in Switzerland as both workman and student, his sojourn at Trent, his many imprisonments, his editorial work, and his war experiences. There is only a glimpse of him after he came to power. But events do not seem to interest the author as do her hero's ideas, with which she is in full accord; and the ideas are subordinate to her attempt to make us see his character. Signora Sarfatti admits it to be "essentially a woman's book" full of "gossip." It is also eulogistic, and furthermore it appears to have omitted a great many things; but there is no doubt that it is an interesting contribution to our knowledge of this extraordinary man from one who knows him well.

The array of books about Roosevelt keeps lengthening. The latest addition is a volume on *Roosevelt and the Old Guard* by J. Hampton Moore, a former member of Congress and sometime mayor of Philadelphia (Macrae-Smith Company, pp. 300). The book covers a wider field than its title might imply, being a virtual biography of Roosevelt during the years 1898–1912, and contains a good deal of material not found in the earlier sketches of his career, particularly as respects Roosevelt's relations with politicians, more or less practical, in Pennsylvania and elsewhere.

The Problem of International Sanctions is the subject of a little book of eighty-eight pages supporting the unratified Geneva Protocol of 1924, by Dr. Mitrany (Oxford University Press). Convinced that sanctions are necessary, the author attempts to show their practical application, maintaining that the application of sanctions with resort to arbitration would secure reasonable flexibility in international relations and avoid "stereotyping of the status quo."

International Law Decisions and Notes, 1923, of the United States Naval War College follows the plan of the previous year. Decisions of

courts of different nations, sometimes showing diversity of practice and sometimes agreement, are brought together by Professor George Grafton Wilson. Such cases refer to ownership, charter and service of vessels, armed vessels, etc. The cases in this volume are mainly American, British, and German, though there are a few from the Japanese courts.

Joseph Bucklin Bishop's *Notes and Anecdotes of Many Years* (Scribner, pp. 236) contains much interesting gossip about the notables whom the author has known, including Horace Greeley, John Hay, Henry Ward Beecher, Edwin L. Godkin, and Theodore Roosevelt. By well chosen anecdotes and the recital of incidents he has aimed to depict the personality of each, and on the whole he has done it successfully.

Denys Gwynn's book on *The Catholic Reaction in France* (Macmillan, pp. 186) is a frankly journalistic attempt to present, from the point of view of an outsider, the important phases of the Catholic movement in France since the war. It contains good chapters on such topics as "The Catholic Press in France" and "The Catholic Trade Unions." The author shows the problem of church and state to have much wider ramifications than most students of comparative government have realized.

Economics of the Radio Industry, by Hiram L. Jome, (A. W. Shaw Company, Chicago, pp. 323), includes chapters on patents and copyright as property problems in the radio field, and a chapter on "Public Policy and Control of Radio Service." A study of the *Economics of the Leather Industry*, by B. R. Rau (Calcutta University Press, pp. 184), includes a chapter on "The State and the Leather Industry," advocating a more active policy of government encouragement.

James J. Mayfield, code commissioner of Alabama, has published a medley of extracts from a variety of official and unofficial sources under the title of *A Scrap Book on Constitutional Government* (Foote and Davies Company, Atlanta, pp. 572). This may be of service as a work of reference, though its value in this respect is lessened by the absence of a table of contents.

The Life of W. Murray Crane, A Man and Brother, by Solomon Bulkley Griffin (Little, Brown, pp. 202), is a tribute to the work and influence of the senator from western Massachusetts by an intimate friend. It describes his success as business man and governor as well as his better known career as United States senator and leader in Republican politics.

This book was the last work of the former editor of the Springfield Republican and was published after his death.

A new edition of Brand Whitlock's autobiographical *Forty Years of It* has been issued by Messrs. D. Appleton and Company (pp. 374). There are no changes in the text, but a foreword by William Allen White has been inserted. "Few American books written in the last two or three decades," says Mr. White, "have told as good a story as this."

The former American ambassador to Italy, Richard Washburn Child, tells the story of his ambassadorial experiences in a book entitled *A Diplomat Looks at Europe* (Duffield, pp. 301). There are intimate pictures of the Genoa and Lausanne conferences, likewise an interesting chapter on Mussolini. In addition the author sets forth his view on international debts, on what Europe thinks of itself and of us, and on our own foreign policy. Not a very deep or discerning book, but a readable one.

The autobiography of a notable Irish parliamentarian, J. G. Swift MacNeill, has been published as *What I Have Seen and Heard* (Little, Brown, pp. 320). There is a great deal of interesting gossip about things political, both in Dublin and at Westminster, with sidelights on many important personages of the past half century.

College Readings on Current Problems, edited by Albert C. Baird (Houghton, Mifflin, pp. 398), is a book of selections, mainly in the field of history, government, sociology, and economics. On the whole, the selections are well chosen. But the same can hardly be said of the references included in the appended bibliographies. Those on government and politics (pp. 378-79) seem to have been culled from a card catalogue on the principle that all books are created free and equal.

Professor Leon C. Marshall has prepared a book of *Readings in the Story of Human Progress* (Macmillan, pp. 492) to accompany his high school text *The Story of Human Progress*. The book is clear, readable, and well illustrated. The volume as a whole—especially the sections on custom, law, public opinion, the nation and the government, and social organization—makes excellent reading for classes in civics.

Professor E. R. A. Seligman's new volume entitled *Studies in Public Finance* (Macmillan, pp. 302) has some highly interesting and significant chapters. There is, for example, one on "The Allied Debts," another on "The Problem of Tax Exempt Securities," and still another on "The

Reform of Municipal Taxation"—all timely questions. The book may be regarded as a supplement to the author's well known *Essays in Taxation* and has the same meritorious features.

A History of American Immigration, 1820-1924, by George M. Stephenson is published by Messrs. Ginn and Company (pp. 316). It deals with immigration as a factor in American political development. There are good introductory chapters on the European background. The bibliographical aids are excellent.

An informing work containing much useful data has been published by W. W. Jennings as a *History of Economic Progress in the United States* (Crowell, pp. 819). The book deals successively with the growth of population, agriculture, manufactures, commerce, and finance.

Three lectures delivered by the Hon. Newton D. Baker at the University of Virginia have been published by Scribner's under the title *Progress and the Constitution* (pp. 94). The first of the three deals with the general topic indicated by the title; the other two are devoted to "The Constitution and Industry" and "The Constitution and Foreign Relations."

The Weil Foundation Lectures for 1925 at the University of North Carolina were given by Mr. William Allen White and have now been published under the title *Some Cycles of Cathay* (University of North Carolina Press, pp. 96). The thesis of the book is that we have passed through three cycles in American history, each being part of a larger cycle of democratic growth. These cycles the author calls Revolutionary, Anti-Slavery, and Populist.

The Making of Modern Italy, by Arrys Salmi (Macmillan, pp. xxi, 231), presents a historical survey extending from 1814 to 1918. It deals largely with political evolution, paying only slight attention to economic history. As a readable narrative in short compass, the book will serve a useful purpose.

The Pollak Foundation for Economic Research has recently published a book on *Profits* by William T. Foster and Waddill Catchings (Houghton, Mifflin Company, pp. 465). The Foundation has evoked a good deal of interest in the book, not only on the strength of its general line of argument, but by offering a prize of \$5,000 for the best adverse criticism.

Facts and Common Sense versus Too Much Government, by Garman Staley (Book Concern, Columbus, Ohio, pp. 296), is a protest against governmental activity in business, including such things as the enactment of workmen's compensation laws and war risk insurance.

Ouroboros (Dutton, pp. x, 101) is the title given by Garet Garrett to a rather pessimistic little book which speculates on the future influence of the machine upon man. The volume is one of the lesser luminaries in the frequently brilliant *Today and Tomorrow Series*.

American relations with Germany since the armistice are set forth in a volume by Sidney Brooks entitled *America and Germany, 1918-1925* (Macmillan, pp. 191). There is a good discussion of the Dawes plan and of its probable effects.

The Thomas Y. Crowell Company has issued a small booklet on *American Citizenship* (pp. 88) containing addresses of a popular nature by such well known men as John W. Davis, Governor Albert C. Ritchie, and Charles E. Hughes. The subjects included are "What Does the Constitution Mean?"; "The Constitution and Modern Tendencies"; "State Responsibility"; and "The Declaration of Independence."

A Study of the City Manager Plan in California (pp. 32), by Randall M. Dorton, city manager of Monterey, has been reprinted from the *City Manager Magazine*.

The Correspondence of William Hickling Prescott, the historian of New Spain, has been published under the editorship of Roger Wolcott (Houghton, Mifflin Company, pp. xxii, 690). The letters cover the years 1833-47 and contain many observations upon the public affairs of the time.

A Day in Ancient Rome, by William Stearns Davis (Allyn and Bacon, pp. 482), gives an admirably clear and vivid picture of Roman life in all its aspects including the political. There is some consideration of the city government and of the various municipal services.

An Old-Fashioned Senator, by Harris Dickson (Stokes, pp. 204), is a story-biography of the Hon. John Sharp Williams—cotton planter, lawyer, sportsman, and senator from Mississippi. The book covers, in a sympathetic and understanding way, the career of a many-sided man.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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THE JURISTIC THEORIES OF KRABBE

W. W. WILLOUGHBY

Johns Hopkins University

The doctrines of H. Krabbe, professor of public law in the University of Leyden, are to be found in his *Die Lehre der Rechtssouveränität*, published in 1906, and his *Die moderne Staatsidee*,¹ the second edition of which appeared in 1919.

The political theory of Krabbe resembles that of Duguit in that it denies law-making power to the state, and recognizes law (as defined by himself) as the ruling power in human society, as sovereign, and, therefore, as above the state. However, as will presently be seen, Krabbe places the state upon a much higher plane than does Duguit. To Duguit, political rulership is nothing more than the bald fact that, in a given community certain persons, for some reason or other, possess and exercise, actual power of control over the actions of the other persons of a group. It is, as it were, an objective fact which cannot, and need not be, ethically justified. To Krabbe, upon the other hand, the state is, in essence, a community of persons unified by the general agreement of its members as to the valuation of public and private interests, and possessing organized instrumentalities for clarifying and formulating these common convictions, and, when necessary, enforcing them. To Krabbe, the state thus

¹ This second work has appeared in English dress under the title, "The Modern Idea of the State." The translators, Professors George H. Sabine and Walter J. Shepard, have increased the value of the volume by adding an extended and luminous note of introduction.

plays a necessary part in the declaration and enforcement of law, if not in investing it with essential validity as such.

We find, however, in Krabbe, and also in his translators, as will be later pointed out, that same mistaken idea which is to be discovered in Duguit, that an inquiry into the idealistic or utilitarian validity of law, as determined by its substantive provisions and the purposes sought to be achieved by its enforcement, has a relevancy to, and that its conclusions can affect, the validity and usefulness of the purely formalistic concepts which the positive or analytical jurist employs.

To Krabbe the creative source of law is the conviction of the people as to the rightfulness of the principles of conduct which the law prescribes. "Thus", he says, "not the will of a sovereign who exists only in the imagination, but the legal conviction of the people, lends binding force to positive law; positive law is valid, therefore, only by virtue of the fact that it incorporates principles of right."² Accordingly, Krabbe goes on to say: "We no longer live under the dominion of persons, either natural persons or fictitious legal persons, but under the dominion of norms, of spiritual forces. In this is revealed the modern idea of the State.

.... Hence we no longer perceive the State as localized in a sovereign, but find it wherever we perceive the power of the law to create obligations. What is now in actual practice adorned with the old name of sovereign is a man or an assemblage of men upon whom the law has laid a task. They are not, therefore, invested with a power to be expressed, through their will, in independence of the law."³

"The theory of the sovereignty of law", he says in another place, "takes account only of that basis for authority which it finds in the spiritual life of man, and specifically in that part of this spiritual life which operates in us as a feeling or sense of right. The law which is in force, therefore, includes every general or special rule, whether written or unwritten, which springs from men's feeling or sense of right."⁴

² *The Modern Idea of the State*, p. 7.

³ *Id.*, p. 8.

⁴ *Id.*, p. 39.

A statute, says Krabbe, which is not supported by this sense of right is not law. "It must be recognized, therefore, that there may be provisions of positive law which lack real legal quality. The legislative organ runs the risk of enacting rules which lack the quality of law either because the organization of the legislature is defective or because it mistakes what the people's sense of right demands. On the other hand, it may happen even more easily that what is embodied in a statute ceases to be law and so is no longer valid because it has lost the basis of its binding force. In such a case compulsion—the punishment or legal judgment which disobedience to the statute entails—is irrelevant. Constraint is justified by the necessity of maintaining the law, but it can never bestow legal quality upon a rule which lacks it. Mere force, whether organized as in the State or unorganized as in an insurrection or revolution, can never give to a rule that *ethical* element which belongs essentially to a rule of law."⁶

Though Krabbe states so emphatically, and without qualification, that a statute or other formal command of the state is not valid if its contents are not in consonance with the convictions of right of the persons to whom they are directed, he does not clearly declare that the individual who deems that this test has not been met should, as a practical proposition, refuse obedience to it, or that, as an ethical proposition, he would be justified in so doing. One may, however, possibly infer that Krabbe asserts that the courts or executive organs of the government would be justified in refusing to apply or enforce statutes or other commands claiming to be law, whose contents do not conform to popular convictions of right. Or, possibly, his meaning is that the control of governments by the convictions of the people regarding what is right is an ideal end to be realized, as rapidly as possible, that, until this ideal is realized, and to the degree that it is not realized, existing governments and their systems of law are not ethically justified, without, however, going to the extent of declaring the essentially rebellious or insurrectionary doctrine that, from a legal as well as an ethical point of view, individuals

⁶ *Id.*, pp. 47-48.

are justified in refusing to support such governments or obedience to their laws.

It is, however, clear that, according to Krabbe, a rule of law is essentially valid when springing from, and supported by, men's feelings of right, even though those feelings or convictions may be improper or erroneous when judged from the standpoint of abstract justice as determined by the ethical philosopher. For he says: "The sense of right as it actually reveals itself, with all its defects, is recognized as the original source of authority." In another place he says: "To a philosopher or to any outsider the law thus declared (by the people's sense of right) may not appear to be just. . . . It is of course possible, owing to the influence of numerous factors both material and ideal, and because of an imperfect insight into the nature of the interests to be evaluated by law, that this sense of right may be different now from what it formerly was, just as it may vary in different individuals under the pressure of divergent experiences and interests. We have to deal with this more or less imperfect sense of right. Its activity produces rules and imparts to them the character of positive rules of law. . . . Practice must content itself with a legal system whose rules are based upon a defective sense of right. . . . If a higher justice is to be evolved, the legal instruction of the people must be undertaken."⁶

Krabbe then goes on to make the interesting assertion that the sense of right of only those individuals who are in a position to share in the spiritual life of the time is to be considered. And even as to these individuals, they may properly participate in determining and formulating this sense only as to interests about which they are qualified to form an intelligent judgment. "If they are required to decide upon the legal value of interests about which they have no knowledge, their minds are compelled to react upon phenomena from which they have experienced no effects. The exclusion of such persons from law-making cannot be taken as denying that the sense of right is the basis of law"⁷

⁶ *Id.*, pp. 50-51.

⁷ *Id.*, p. 51.

The theories of Rousseau, says Krabbe, first made it possible to view political authority other than as inhering in specific persons, but this had only the effect of placing legislative authority in the people—a conception which jurists have since developed to the extent of transferring this law-making power to the abstract state of their own conceptual creation. The further and necessary step which needs to be taken, says Krabbe, is to locate this ultimate and decisive law-creating power in the common conviction of the people as to what is right, and to view popular or representative assemblies as merely the mouthpieces through which the people's convictions find utterance. "The sole rulership of the law," he says, "emerges only where law-making rests exclusively in the hands of the popular assembly, since the popular assembly gets its significance from what it represents, namely, the nation's sense of right. It is therefore the bearer of that spiritual power from which is derived the rulership and the imperative nature of law."⁸

The explanation which Krabbe gives of the origin of, and ethical basis for, law would seem closely to resemble that of the historical school of jurists, especially as voiced by Savigny, according to whom law is a product of the national consciousness or spirit of a people. But there is, says Krabbe, this important difference between his own view and that of Savigny and his school. According to them, there exists, as it were, a superconsciousness or national spirit which finds expression in custom and a body of laws which are binding upon all the individuals of the community or nation. According to his own view, says Krabbe, there is no such superpersonal or national consciousness, and law is created, not by communal convictions, but by an identity or consonance of individual convictions or sentiments of right.

Krabbe's political and legal philosophy also undoubtedly exhibits some close resemblances to that of Rousseau. In result, it locates sovereignty in the governed rather than in a monarch or ruling class. It views governments as but instrumentalities for carrying out the popular will or judgment. It defends

* *Id.*, p. 34.

the right of majorities. It asserts that political or legal control cannot be ethically justified by reason solely of its source—that it must be justified, if justified at all, by the intrinsic merits of the substantive provisions of the commands that are enforced. But here the resemblances cease. Krabbe does not, as does Rousseau, start with the conception of men as endowed by their very nature with certain inalienable rights which the law must respect. His political philosophy is clearly a social rather than an individualistic one. Hence he sees no necessity for founding the social and political community upon a contract to which all the individual members are voluntary parties. Nor is he led by any other route to the acceptance of that absolute sovereignty of the state which Rousseau asserts—that sublimation of the individual will into the general will, that complete surrender of individual liberty which results from the contract according to which, to use Rousseau's words, "each of us puts his person and all his power in common under the supreme direction of the General Will; and, in our corporate capacity, we receive each member as an individual part of the whole."⁹

Though Krabbe, in his search for ethically valid principles of law, does not recognize that men, apart from social life, have inalienable rights or indestructible interests to which value should be attached, and which, therefore, should find recognition and embodiment in all systems of law, he nevertheless asserts that law derives its validity as to each individual from the fact that its provisions are in consonance with such individual's feeling or conviction of the rightfulness of the conduct which it prescribes.

This position makes it necessary for Krabbe to determine the validity of laws, in their application to those particular individuals who do not happen to agree with their fellow citizens as to the laws' rightfulness. Where there are such differences, says

⁹ *Social Contract*, Bk. I, Chap. VI. Krabbe says: "If Rousseau's political theory had been regarded only in the light of its main principles and had not been criticized exclusively with reference to what he borrowed from earlier theories, viz., the explanation of the community and the establishment of its sovereignty by the social contract, there might have been seen in it, what it doubtless contains, the principle of the modern idea of the State" (p. 29).

Krabbe, the majority should govern. This right of the majority he defends upon the following grounds:

Law, he says, is a rule of a community, and the purposes of that community cannot be realized unless its rules are general in operation and not virtually contradictory. "Hence our sense of right attaches the highest value to having a single rule, and sacrifices, if necessary, a particular content which might otherwise be preferred."¹⁰ The fact that a rule is accepted as right by a majority of the individuals of a community shows that it has a higher value than any contradictory rule. Even by those who prefer the contradictory rule, this fact is perceived. "Even according to their own sense of right, it is more important to have a single rule in the community to which they belong than to have the rule which they prefer. Consequently, for those whose convictions accord with the rule, the obligation to obey the customary rule rests upon the value of the *content* of the rule; for all others it is based upon the value of having the single rule."¹¹

Krabbe holds so strictly to this majority principle that he will not admit the validity of provisions, even though embodied in written constitutions, which require more than a majority vote for the legitimization of particular state actions. "Such provisions have no legal value"; he declares, "they are not rules of law, and are not binding," because they prevent the operation of the simple majority principle. Rules thus retained, though opposed by a majority of the individuals of the community, may continue to be obeyed, but they are not really rules of law and therefore *ought* not to be obeyed.

This majority principle is also applied by Krabbe in determining the action of legislative or other collegiate political bodies. He emphasizes the fact that the representatives of the people should hold themselves bound by the known judgments of their electorates as to the rules of law to be adopted. So far as this is not known the representatives must, of course, act according to their own sense of right. The problem of political science is to perfect the organization of societies so that the sense of right

¹⁰ *Id.*, p. 74.

¹¹ *Id.*, p. 75.

of the individuals may find modes of authentic expression and enforcement when so expressed. That, according to Krabbe, unwritten law, voicing the popular sense of right, may abrogate and modify statutory law, or even written constitutional provisions, goes without saying.

As can now be seen, Krabbe, though agreeing with Duguit as to the sovereignty of law rather than of the state, attaches to the state a greater importance than does Duguit. He does not regard the control exercised by state officials as a bald matter of fact, of superior power or force which neither can nor needs to be ethically justified.¹² Upon the contrary, he declares that political rulership is one of law—that it is essentially *legal* in character, and justified as such. The state exists, in other words, as a legal institution and has for its purpose the clarifying, and, when necessary, the enforcing of the rules of right which the people hold, whether or not, from the philosophic point of view, those rules are wholly just. "It may be admitted," he says, "that the positive law does not yet correspond to our ideal of it and that the sense of right which gave rise to it was defective; it may be admitted that the persons entrusted with law-making are not sufficiently impartial in their attitude toward social interests of a material, moral, religious, and intellectual kind. Still this does not alter the fact that the title of the rulers is a *legal* title founded upon positive law. This is the point which deserves all the emphasis."¹³

"A people is a State", says Krabbe, "because of the body of legal relations (*Rechtsleben*) existing in it. And one State differs from another State because of the particular standard of legal value applied in the valuation of interests."¹⁴ It is barely pos-

¹² Duguit says: "La vérité est que la puissance politique est un fait qui n'a en soi aucun caractère de légitimité ou d'ilégitimité." *Manuel de Droit Constitutionnel* (1907), p. 36.

¹³ P. 207. Krabbe, furthermore, does not accept Duguit's doctrine of "solidarity" as an adequate basis for law. He says: "It cannot even be shown as yet that the law can be deduced from solidarity, for solidarity is an abstraction and cannot be recognized as an active principle unless it can be shown that the sense of right is inspired throughout by it."

¹⁴ *Id.*, p. 209.

sible, he says, to imagine a state, thus defined, as existing without some organization of its body of legal relations, but in all civilized states there is this organization involving the existence and operation of governmental organs. These organs owe their origin and competence to the law, that is, to the sense of right of the people, and this decisive law-making power of the people is never vested in these organs or limited by their action, for, independently of these organized methods of law-making, the unorganized sense of right continues to operate legislatively, whether to annul the legality of the statutes or ordinances which these organs have declared, or to modify the constitutional provisions which provide for the existence and functioning of these organs themselves.

The doctrine which Krabbe declares with regard to law makes it easy for him to bridge the gap which analytical jurisprudence is compelled to recognize between municipal and international law, and to assert the possibility of a world state that will not do violence to the sovereignty of the state of analytical jurisprudence.

Just as national or municipal law springs from, and is created by, the sense of right felt by members of a given people or national group, so international law, says Krabbe, is born of a cosmopolitan conviction as to the principles that should be applied in the dealings of national states with one another. To the extent, then, to which international law exists, its validity is exactly the same as that of municipal law. "International law is distinguished from national law not in respect to its origin and foundation, but in respect to the extent of the community to which its commands apply. And the incomplete and less perfect character of international law does not lie in the fact that it rules over 'sovereign' States, and is therefore rooted in the defective organization of the sense of right which tends to regulate the community of civilized nations."¹⁶

Furthermore, to the extent that international law exists, that is, to the extent that there are cosmopolitan convictions regarding rules of right applicable to groups of individuals

¹⁶ *Id.*, p. 236.

irrespective of national boundaries or affiliations, an international state already exists, and, with the development of its organized modes of declaring and executing these rules, the importance of this international state will increase until the now existing national states will find their proper places as parts or local organizations of the greater whole.

With regard to Krabbe's conception of the nature of international law, it is furthermore to be pointed out that, according to it, the subjects of international law are not the states, as held by the doctrine of orthodox international jurisprudence, but private individuals. It is their sense of right which creates and sustains it. Therefore, says Krabbe, it is unfortunate that the term "international law" should be employed. "There is no interposition of a hypothetical state authority. The name international law is really a misnomer. The name is suitable only to the theory which regards States as subjects of this law and which consequently regards it as a law *between* States. It would be better, therefore, to speak of a *Supernational Law*, since this expresses the idea that we are dealing with a law which regulates a community of men embracing several States and which possesses a correspondingly higher validity than that attaching to national law."¹⁶

Whether or not one accepts Professor Krabbe's philosophy of law and of the state, one cannot but agree with him as to the need which he urges that better provision should be made in the several states of the world for organs or instrumentalities by means of which the peoples of these states will be enabled to obtain a better knowledge of, and to express more clearly their convictions of right regarding, international interests. At present it is chiefly the legal conceptions of central governments that are influential, and, even as to them, it is the judgments of executive rather than of the more truly representative legislative organs that are decisive. "Only when the vital interests of the nation are at stake does the national [popular] sense of right exert a powerful influence, and when this happens the

¹⁶ *Id.*, p. 245. Krabbe says: "What is usually called the law of nations is really international constitutional law" (p. 246).

government is frequently subject to pressure from convictions and conceptions which have been formed without a complete knowledge of the relationships. Consequently, one of the greatest defects in the making of international law lies precisely in the lack of an organization in the different States such as would insure the existence of a popular organ which, like the government [the executive], would be in constant touch with international interests. This might be either a special organ or the one already existing for law-making within the State. The sense of right represented by this organ, being supported by a knowledge of the interests concerned, could make itself effective in the field of international law. Such an organization is the first object to be striven for in the immediate future and pacivism ought to devote all its energy to this end."¹⁷

(It has been seen that Krabbe definitely states that positive law owes its force as such to the consonance of its substantive provisions with the feelings or convictions of right held by the people to which its commands are addressed, and not to the fiat of the state which enforces it.) And, therefore, he is obliged to hold that rules or commands issued by the legislative organs of a state the contents of which do not voice this popular conviction of right are not valid—are not, in fact, law, except in a formal sense. In truth, he appears to deny the quality of law to any such legislative products that have not been the utterances of governmental organs so constituted as to be able to express the ethical judgments of the governed. He nowhere, as has been said, expressly asserts, however, that commands of the state whose contents do not conform to the convictions of right of the majority of the persons to whom they are addressed and who are qualified to form such judgments should be disobeyed. If, then, Krabbe may be held to assert that such laws are valid in a formal sense, even if not intrinsically valid from an ethical point of view, his system becomes a purely ethical one; that is, his argument is addressed wholly to the matter of the ethical validity of the state's commands, and his conclusions, even if accepted, do not affect or invalidate the assump-

ⁿ *Id.*, p. 250.

tions of the analytical jurist. In short, it can be conceded that, ethically viewed, law, as an expression of the people's convictions of right, gains nothing, as to its validity, from the state, and as thus viewed is sovereign, and controls the state; and yet assert that, juristically viewed, that is, as *Juristisches Recht*, law is a creation of the state, an expression of its juristically sovereign will.

Krabbe asserts that the orthodox juristic theory, though predicating sovereignty or omnicompetence in the matter of law-making, nevertheless, and inconsistently with this fundamental premise, has, in fact, been forced to subordinate the state to its own law,—that this is involved in the conception of what has been termed the *Rechtsstaat*, according to which the state can act only in and through law, and also according to which all governmental agencies have their legal competences determined by law. Thus, after quoting the statement of Laband that "the State can require no performances and impose no restraint, can command its subjects in nothing and forbid them in nothing, except on the basis of a legal prescription," Krabbe says: "The modern idea of the State [i.e., his own idea] recognizes the impersonal authority of law as the ruling power. In this respect it accepts the standpoint of the theory of the legal State as this was formulated by Laband. But . . . it no longer holds that the State subordinate itself to the law, but insists that the authority of the State is nothing other than the authority of law. Hence there is only one ruling power, the power of law. According to this view, the State is not coerced by law, but is rather endowed with the authority of law. The law is not a superior and the State a subordinate power, but the authority inherent in the State and the authority of the law are identical, so that the basis of the rulership of the State is coincident with the binding force of law."

In this statement of the orthodox juristic conception of the state as a *Rechtsstaat*, Krabbe is scarcely fair when he asserts that the state, according to the orthodox juristic view, is subordinated to law. The fact, of course, is that the jurist regards the state as the creator of all law which, as to itself, is deemed

to be legally valid. It has been earlier pointed out that a state may be regarded from a variety of points of view, and as thus variously regarded—sociologically, ethically, psychologically, or juristically—it may be differently defined and clothed with different essential attributes. When it is analyzed by the jurist solely from the legal point of view, it is necessarily considered as a *Rechtsstaat*, that is, as living and having its being in law and functioning solely through law. But surely this is not to conceive of the state as subordinated to law. In this respect is evidenced the failure of Krabbe to distinguish between the state, in which legal sovereignty inheres, and the governmental organs through which it operates. Laws, and especially constitutional laws, determine the competences of these organs, but they do not, and *ex hypothesi* cannot, control their creator, the state.

Krabbe's essential errors, then, would seem to be his failure to keep sufficiently sharp the distinction between ethical and legal validity, and his conviction, of which he does not appear to be able to rid himself, that when the jurist asserts the legal validity of a law there is implied a claim as to its ethical validity, that is, as to the intrinsic worth of its substantive provisions.

Professors Sabine and Shepard in their Introduction seem to appreciate clearly enough the strictly limited field within which the analytical jurist confines the application of his concepts, for they correctly say: "The theory of sovereignty says nothing about the content of the command. The only question is whether it issues from a proper source: an imperative arising from an authoritative source is law." But then they immediately go on to declare: "The only question concerns the means by which a given will can be designated as authoritative. Accordingly theories of sovereignty differ only with reference to the method of determining the source from which imperatives may rightly issue. Or, to state the question somewhat differently, if law is the will of the State, how is the State given the right to express its will in commands binding upon its subjects?" Now, if by this it were intended to say that, in the case of every state, the analytical jurist is confronted with the constitutional or public law problem of determining the juristic origin of the

state, or of ascertaining the organs through which, or the legal processes by means of which, the state's legislative will may be authentically declared and enforced, no objection could be raised. But this is evidently not what is meant, for Professors Sabine and Shepard at once go on to discuss what they conceive to have been the unsuccessful attempted answers to the questions which they have stated; namely, the theories of divine right, of political contract, etc. Thus, from a matter of formalistic juristic envisagement the leap is made to the question of the ethical basis upon which political authority may be justified.

Confusion of ethical and formal legalistic conceptions of the validity of the law recognized by the state is still more evident in the section of the translators' Introduction in which they discuss "The Authority of Law".¹⁸ They say: "We have argued that the law deals with the manifold human interests which exist within a community, that it represents a system of relatively stable judgments of value concerning these interests and that its end is to safeguard as wide a range of interests as possible, due regard being given not only to the number of interests but to their intrinsic importance. If this be correct, it is obviously meaningless to ask further why law in general has authority. It has authority because of its very nature. . . . Like any other problem the evaluation of interests is settled when it is settled correctly. In other words, the correctness of the solution cannot be judged according to its content, that is, according to the correctness of its practical success in making effective the valuation it expresses. It is clear, therefore, why this conception of law gives a radically different view of authority from that implicit in the doctrine of sovereignty. The latter is purely a formal conception of authority. The law is authoritative because of the source whence it comes. It is the voice of a super-person, either of an individual in some way designated as a superior, or the collective person or State. This view neglects the fact that, as an evaluation of interests, a law has to demonstrate its correctness in a way fundamentally like that by which any other decision is justified. Verification is

¹⁸ Pp. lxx *et seq.*

in terms of content and not of form. To urge formal correctness exclusively is nothing but a way of withdrawing a favored solution from criticism."

It has been worth while to make this extended quotation because it states so clearly the distinction between the jurist's conception of validity and that of the moralist. At the same time, it is to be observed that it is unfair to the jurist, in so far as it seems to imply that he sets up his conception as a substitute for that of the moralist, or, at any rate, as a device for escaping from the necessity of meeting the ethical problem. Of course neither of these implications is true. The jurist does not claim that his doctrine of legality is an alternative to that of the moralist; it has a wholly different purpose, and, therefore, it is not an attempt to avoid the problem as to ethical justification of law in general or of special laws in particular. It simply leaves that question unconsidered, and, accordingly, one which the moralist may freely solve as seems to him right.

AMERICAN INTERPRETATIONS OF NATURAL LAW

B. F. WRIGHT, JR.

Harvard University

When James Otis in 1764 declared that government "has an everlasting foundation in the unchangeable will of God, the author of nature, whose laws never vary," and that "there can be no prescription old enough to supersede the law of nature and the grant of God Almighty, who has given to all men a natural right to be free,"¹ he was at once making use of one of the oldest and most important conceptions in the history of political thought and giving to that concept a distinctly American meaning.² His was merely one of the earliest examples in this country of a kind of political theory which was to find reflection in the Declaration of Independence in one generation, in the higher law doctrine in another, and in a famous trilogy of decisions of the Supreme Court in still a third.³ However, the natural-rights theory is by no means the only usage found for the natural-law concept in the political thought of this country, and it is the purpose of this paper to trace briefly the various interpretations placed upon it and the different forms through which it has passed.

It is easy enough to say that natural law has meant just what the individual theorist desired to have it mean; for its content has varied from philosophical anarchy to paternalistic aristocracy, and from the assertion of strongly individualistic democracy to the defence of highly centralized government. But this statement does not dispose of the problem. It is necessary to know why and

¹ *The Rights of the British Colonies Asserted and Proved*, 11, 16.

² Although the theory of the natural rights of the individual was used by the Sophists, it is an interpretation of the natural-law concept which was otherwise used practically not at all until the period of the civil wars in seventeenth century England. The best examples of such usage are contained in Locke's second *Treatise* and Blackstone's *Commentaries*.

³ The cases referred to are *Lochner v. New York* (1904), *Adair v. U. S.* (1907), and *Coppage v. Kansas* (1914).

when these varying interpretations were advanced and what their exponents meant when they spoke so confidently of the laws of nature.

II

First of all, it is to be pointed out that, excepting for seventeenth century New England, very little is heard of natural law in America until after the beginning of the opposition to the regulative measures of the British Parliament in 1763. In fact there seems to have been almost no theorizing about government in any of the colonies before that time; important political and constitutional development there was, but the theory of the times must be learned from what is implicit in institutional history rather than what is explicit in writings on political philosophy. In New England, however, there is to be found, at least in the earlier years of the colonies, a highly developed and greatly relied upon theory of divine law. That this idea of a supreme law of God is of the same species as the theory of a law of nature is attested not only by the medieval identification of natural and divine law but also by the way in which it was used in these colonies. The Mayflower Compact, the Fundamental Orders of Connecticut, and the Fundamental Articles of New Haven assert the idea of a divine basis and function of civil government, while such laws as those of the famous Massachusetts Body of Liberties demonstrate the reliance of the colonists upon their interpretation of the law of God rather than upon the common law of England.⁴

But it is not so much the earlier colonial ideas of a supreme law of God as it is the example of Continental and English writers that prepared the way for later American theories of natural law. In the seventeenth and eighteenth centuries natural law was one of the great branches of learning in Europe, and the works of Grotius, Pufendorf, Vattel, and Burlamaqui were very well known in America.⁵ Perhaps even more important for the political

⁴ This subject is best discussed in Reisch, *English Common Law in the Early American Colonies*, and in Merriam, *History of American Political Theories*, Chap. I.

⁵ When John Adams was beginning his study of law in 1758, Jeremiah Gridley, leader of the Boston bar, told him that the difficulties of the lawyer in this country

thought of the Revolutionary period were the ideas of rights secured to individuals as against the power of the government which were developed in England during the struggles of the seventeenth century and expressed in classic form in the writings of Locke and Blackstone. Nor can we afford to disregard the significance of the deistic emphasis upon nature as the all-important concept in philosophy and theology.⁶ In a region where men read Pope, Bolingbroke, Hume, and simplified versions of the physical and metaphysical works of Newton and Locke, it is only to be expected that they should be imbued with theories of a supreme law of nature, developed, to be sure, in speculations theological, physical, and epistemological, but just as applicable to those political when the need arose.

And so when the dispute between the mother country and her American colonies came to a head over the question of the power of Parliament to regulate and to tax the subjects of the king who had settled in the dominions beyond the seas, the colonists who had read the orations of Cicero, the writings of Grotius and Vattel, Pufendorf and Burlamaqui, Locke and Blackstone, who had listened to sermons upon the supremacy of the laws of God, or had perused the arguments of the deists, found in such philosophy controversial weapons suited to their needs.

For twelve years the theory of natural law expressed by James Otis in 1764 was that generally accepted by the colonial pamphleteers and speakers. Contrary to the general notion of the subject, the pre-Revolutionary argument of rights derived from nature is never one from natural law alone; always it is declared that there are certain natural rights which are guaranteed by the British constitution, or, as Samuel Adams put it: "The rights

were greater than in England, for here he must study not only the common law but also "civil law, and natural law and admiralty law. . . ." *Works*, II, 46. A glance at the citations in the writings of men like Adams and James Wilson will demonstrate their indebtedness to the European theorists of what some have termed the school of natural law.

⁶ Riley, *American Thought*, 2nd ed., 1-2. See also Becker, *The Declaration of Independence*, Chap. II. I am inclined to believe that Professor Becker overestimates the influence of the philosophical and scientific movements and neglects the importance of political and legal writers, especially Blackstone.

of Nature are happily interwoven in the British Constitution—It is its Glory that it is copyd from Nature."⁷ In his "Dissertation on the Canon and Feudal Law" John Adams declared that if the rulers of the mother country would endear the colonies to her they must "become attentive to the grounds and principles of government, ecclesiastical and civil. Let us study the law of nature; search into the spirit of the British constitution; read the histories of ancient ages; contemplate the great examples of Greece and Rome; set before us the conduct of our own British ancestors, who have defended for us the inherent rights of mankind against foreign and domestic tyrants and usurpers, against arbitrary Kings and cruel priests, in short against the gates of earth and hell."⁸

Other examples of this type of theory are too well known to require special attention.⁹ For present purposes it is sufficient to point out that although the theory of the natural rights of man was the most important political conception of the time it was also, to a degree, a theory of the British constitutional system.¹⁰ But this was not to be the final step in the development of the theory of natural law during the Revolution. Strangely enough, it remained for an Englishman but newly arrived in the land to give the first effective expression to a theory of rights as resting solely upon the authority of nature. Tom Paine it was who, on hearing of the proud boast of Franklin, "Where liberty is, there is my country," capped it with one yet more magnificent, "Where liberty is not, there is mine." His interest was in the rights of man as man, not as a citizen of this or that country, and his appeal in the extremely influential "Common Sense" was to those *rights of mankind* which exist independently of charters or constitutions.¹¹

⁷ *Writings*, I, 47.

⁸ *Works*, III, 462. See also his Novanglus and Clarendon letters.

⁹ Of particular importance are the pamphlets of Jefferson, Hamilton, and Wilson.

¹⁰ On this subject see C. H. Mallwain, *The American Revolution*, and R. G. Adams, *Political Ideas of the American Revolution*.

¹¹ *Writings*, Conway ed., I, *passim*.

Two states, New Hampshire and South Carolina, adopted constitutions before the Congressional resolution of May 15, 1776, but since the instruments were intended to be neither permanent nor revolutionary no reference to the rights of individuals is to be found in them. The first state to adopt a constitution after that date was Virginia, and with the inclusion of the purest natural-rights theory in its prefatory Declaration of Rights and in the Declaration of Independence it became evident that the American theory of natural rights was no longer an integral part of the American interpretation of the British constitution. It is not necessary to dwell upon the extent to which this philosophy of government was accepted at the time; the recorded debates, the pamphlet literature, and the state bills of rights speak for themselves.¹²

The period of the two decades following 1763 was one of political revolt, and therefore one in which the basic problems of political theory were in question. Few ages in the world's history have witnessed an equal outburst of theoretical discussion dealing with the nature and functions of political society. Desiring to justify their claims for certain rights, the Americans naturally turned to the theory best suited to their purpose, a negative rather than a positive one, i.e., one placing emphasis upon the things which government may not do rather than one dealing with the construction of political institutions. But by 1787 their condition and their philosophical needs had changed. With independence a fact, with no acts of Parliament against which to declaim, with the general acceptance of the theory and practice of republican government, the problem had become that of making more workable their own government rather than of protesting against acts of tyranny. However, in spite of the fact that the Philadelphia convention had not the task of framing a theoretical protest but that of shaping a superstructure upon a

¹² The lack of a bill of rights in the proposed Massachusetts constitution of 1787 led to the preparation of a document which deserves a more prominent place in American political theory than it has been accorded. I refer to the "Essex Result" written by Theophilus Parsons, later chief justice of his state, and adopted by a group of voters of Essex County. It may be found in T. Parsons' *Memoir* of his father.

generally accepted foundation, and in spite of the very conservative character of its membership, the natural-law theory seems never to have been questioned during its meetings. References to the concept are fairly frequent, but of relatively little importance, and in no case do they represent any further development of the views which had become commonplaces of the time.¹³

If the natural-law philosophy had no very important relation to the discussion of the details of government which occupied the attention of the convention, it was made to have a large and a significant part in the controversy over ratification. In hundreds of speeches and pamphlets, men like Gerry of Massachusetts, Martin of Maryland, Mason and Henry of Virginia, Lansing, Yates, and Williams of New York, asserted that the natural rights of the people and of the states were in danger even as they had been in 1775. These rights, but recently won from Britain at the cost of a revolution in which many had lost their lives and their fortunes, were to be sacrificed to the desire on the part of the aristocracy for a government in which a few men would have an unlimited power.¹⁴ Many of the Anti-Federalists undoubtedly were far more concerned about the powers of the states than about the rights of individuals, but they nevertheless found it expedient to place a very great emphasis upon the theory of natural rights.¹⁵ Others of this party seem to have been honestly concerned for the inherent rights of man, rights for whose protection the proposed constitution made no provision.¹⁶

The fact that the Anti-Federalists attacked the proposed constitution with the weapon of natural rights did not prevent the Federalists from defending it with precisely the same instrument.

¹³ See M. Farrand (ed.), *Records of the Federal Convention*, I, 49, 134, 147, 324, 437, 440; II, 56, 119, 124, 137, 222.

¹⁴ The more important speeches and writings are collected in Elliot's *Debates* and Ford's *Pamphlets and Essays*.

¹⁵ Particularly is this true of Gerry and Martin. It is interesting to compare the much-quoted statement in the opening days of the convention that "The Evils we experience flow from the excess of democracy," with campaign uses of extreme natural-rights theories.

¹⁶ This applies especially to George Mason of Virginia. See also the opinion of Jefferson as expressed in his letters of the time. *Writings* (Ford's ed.), IV, 2, 4, 5, 8 et seq.

We may have serious doubts about the sincerity with which certain of them used the concept, but, from the point of view of the strict natural-law argument, theirs is the more logical of the two. For, when the Anti-Federalists contended that there are certain rights of man which are natural and inalienable, they had but to reply that they were heartily convinced of the truth of such doctrine and that they believed such rights to be so natural and so inalienable that provisions for their recognition in man-made constitutions would be superfluous. This line of defense was worked out by James Wilson and expressed in final form by Hamilton in the eighty-fourth number of the "Federalist." They argue that a bill of rights would even be dangerous, since it could not set forth all natural rights and would therefore afford a pretext to claim more power than the document was intended to grant. So ardent a believer in the natural-rights theory as John Dickinson contended that a bill of rights could have no proper place in a federal constitution,¹⁷ and Benjamin Rush went so far as to say: "I consider it as an honor to the late convention; that this system has not been disgraced with a bill of rights. Would it not be absurd to frame a formal declaration that our natural rights are acquired from ourselves?"¹⁸

The result of the attacks upon the constitution is to be seen in the amendments proposed by seven of the ratifying states, in the twelve amendments submitted to the states by Congress, and in the ten amendments ratified by them and thereafter composing the federal "bill of rights."

In the history of American political thought the period of Federalist supremacy is not fruitful of new developments; old theories are generally accepted in the form developed during the preceding struggles or in but slightly modified form. That is not to say, however, that political theory was entirely neglected; nor is it true, as has frequently been assumed, that the concept of

¹⁷ See his *Letters of Fabius*, 1787. In the edition of 1797 he points with pride to the resemblance between the theory of these letters and Paine's *Rights of Man*.

¹⁸ Given in McMaster and Stone, *Pennsylvania and the Federal Constitution*, 295. The most amusing, if not the most profound, arguments of the campaign are to be found in H. H. Brackenbridge, *Cursory Remarks*. This ironical essay is reprinted in Ford's *Essays*.

natural law was discarded. On the contrary, it formed an important part of every work on political theory written during these years. John Adams, for example, although he was engaged in defending American constitutions rather than in remonstrating against acts of Parliament, continued to hold that the theory of the rights of man is the only sound basis for government. As in his earlier political writings, he ascertains the principles of natural law from an historical survey of institutions as well as from deductions of pure reason. Thus his lengthy examination of the rise and fall of governments seems to him to lead to the conclusion that "three branches of power have an unalterable foundation in nature; that they exist in every society natural and artificial; and that if all of them are not acknowledged in any constitution of government, it will be found to be imperfect, unstable, and soon enslaved. . . ."¹⁹ His theory of a natural aristocracy, a theory which he believes to be thoroughly in keeping with the rights of man, is also based upon his interpretation of the laws of nature.²⁰

Although Jefferson never prepared a systematic study of politics, it is evident that his letters and speeches of this period, as well as his draft of the Kentucky Resolutions, are thoroughly in sympathy with the teachings of his friends, Thomas Paine, Joseph Priestley, and Joel Barlow.²¹ That is, he continues to espouse the revolutionary natural-rights philosophy. And in the writings of Barlow himself we find a more or less systematic expression of the extreme natural-rights dogma compounded from the already traditional American theory of government, the ideas of the French Revolution, and the writings of Paine.²² Unlike many Americans of his time, he holds that the laws of nature, which form the only true basis of government, are not to be derived from the teachings of the Bible or the church but from reason aided by the moral sense. Even those who, like John Quincy Adams, disagreed with the theories of Paine were very

¹⁹ *Works*, IV, 579, 292 ff. Cf. Merriam, *op. cit.*, 125.

²⁰ *Ibid.*, VI, 232, 234, 271, 275, 397, 458.

²¹ *Writings* (Ford's ed.), V, 147, 329; VI, 87, 88, 102, 517; VII, 172, 406.

²² *Political Writings*, especially the *Advice to the Privileged Orders*.

careful to point out that they were attacking "The Rights of Man," but not the rights of man, not the basic premise of Paine's book but the conclusion which he infers from "unquestionable principles." The younger Adams, for example, contends that Paine would make the rights of the majority alone inalienable; he would neglect alike the natural rights of the minority and those "immutable laws of justice and of morality" which are paramount to all human legislation.²³ In other words, Adams holds that the principles of natural rights, as well as the broader rules of natural law, serve a conservative as well as a revolutionary purpose. Both restrict the will of the majority of the people.

Among the most interesting of all the political writings of the period are those of James Wilson and Nathaniel Chipman. Both conservatives, both lawyers, they are nevertheless among the foremost exponents of natural-law theory that this country has produced; and this in spite of the fact that they are systematic rather than controversial writers. Not Grotius or Vattel or Burlamaqui is more careful to analyze the natural-law concept than Wilson.²⁴ Nor do any of them assign to it a greater place in the laws by which we live. He disagrees with Blackstone, who had said that law involves a command of a superior to an inferior, because such a statement is consistent neither with the omnipotence of the Divinity in the sphere of legislation nor with the natural and perfect equality of all men.²⁵ He is even more unlike Blackstone in that his treatment of natural law is no mere preliminary obeisance to current doctrines. One has but to look over the chapters on international and private law to find that he carries his theories of nature into that part of his writings. The book of Chipman is more concerned with politics than with law, but the point of view is substantially the same.²⁶ Perhaps the most striking thing about these two systems of theory is that both hold that natural law is progressive, Wilson on the ground that as men progress in knowledge and virtue they become capable

²³ *Letters of Publicola*, in his *Writings*, I, 69, 77, 78, 80, 83, 94, 98.

²⁴ *Lectures on Law, Works* (1804 ed.), especially Vol. I.

²⁵ *Ibid.*, I, 108.

²⁶ *Sketches of the Principles of Government* (1793).

of recognizing and following higher standards, Chipman on the ground that although the rules of nature are immutable they do not apply alike to all circumstances, different principles coming into force as the relations which the laws of nature govern undergo change. He also argues that since the American constitution alone provides for amendment it is the only one based upon true principles of natural law.

III

Whereas there is no important political theorist before 1800 whose works fail to give evidence of belief in and reliance upon the natural-law concept in one of its forms, after that date the tendency, with the exception of the theory of the slavery controversy, is increasingly toward discarding it. Aside from the line of cleavage marked by the Civil War and the necessity of considering separately the ideas used in the struggle over slavery, the material containing the political thought of the century is exceedingly difficult of classification. Being a period of transition, and one in which many as yet uncharted forces were at work, the strands of a developing political thought are more evident in the finished product than in the making. The men of these years were not at all thoughtful of the problems they were creating for future scholars. Particularly is this true of those engaged in public affairs, for they seem to see no rational relation between their political ideas and the concept of natural law. This is foreshadowed by the scant attention paid to it by Jefferson as soon as he ceased to be the leader of the opposition. Furthermore, he seems to be coming over to the interpretation of the Adamses, for, in his inaugural address, although he affirms his belief in the natural rights of the people and the sacred principle of majority rule, he also states that "that will [the will of the majority] to be rightful must be reasonable; that the Minority possess equal rights, which equal laws must protect, and to violate would be oppression."²⁷ A logical theory of majority rule, such as he had previously espoused, can have no place for such limiting qualifications, yet not only does he begin to find that

²⁷ *Writings* (Ford's ed.), VIII, 2.

the rules of nature are regulatory as well as limiting but he also writes to John Adams that he is in agreement with the latter's contention that there is a natural aristocracy among men, and indeed he goes one step beyond Adams in urging that these natural *aristoi* should be elected to all of the offices of government and not merely to the upper house of the legislature.²⁸

Nor do more extreme democrats of the type of Jackson and Lincoln find it necessary to bolster up their faith in government of and by the people by references to natural law, for their use of the theory is both slight and unimportant.²⁹ Clay seems not to have had the concept in his political vocabulary, and Webster, although he stood most stoutly for the inalienable rights of property, managed to make speeches on the Declaration of Independence without once referring to the natural rights of man.³⁰ Only John Quincy Adams, last of the old line of statesmen in more ways than one, found an important place in his writings for the theory of the laws of nature. Not only does he contend that the first principles of natural right prohibit the lodgment of absolute power in any government,³¹ but he also asserts the view that it is the whole people of the nation, and not those of any particular state, who have such rights. The Declaration of Independence was the act of a single people and not of thirteen peoples; the natural rights of which it speaks are those of the country as a unit.³² Jefferson Davis, on the other hand, holds that that document had as its basic principle the theory that ultimate rights inhere in each community, and this, he says, is recognized in the secession of eleven states from the United States of the Confederation in order to establish a new government—a step contrary to the law of the then existing constitution but in

²⁸ *Ibid.*, IX, 425.

²⁹ In Jackson's first inaugural address there is a casual reference to the rights of man, and in his nullification message and proclamation he asserts his belief in the right of revolution when undertaken by the people of the whole state. *Messages* (1827 ed.), 37, 193, 230, 231. Lincoln's profound belief in the rights of the people certainly did not lead him to place any emphasis upon the "natural" rights of man.

³⁰ *Works* (4th ed.), II, 46; IV, 375. But cf. *ibid.*, IV, 500-522.

³¹ Oration at Quincy, July 4, 1831.

³² Speech at New York, April 30, 1839.

accordance with the principles of natural law as set forth in the Declaration of Independence.³³

The use of theory of natural law in the development of American public and private law is an extensive subject in itself and cannot be taken up here.³⁴ However, it seems appropriate to refer to the very important part played by this theory in the legal writings and the court decisions of the times. In the opinions of men like Marshall, Kent, and Story, as well as in their formal treatises, the influence of natural-law ideas is apparent. Many of the teachings of the earlier natural-law school continued to be in the ascendant during this most important period of American legal history; and the influence of the introductory part of Blackstone's "Commentaries" continued long after separation from England had been attained.

There have been those who, over-ardent in the belief that only the frontier can furnish an interpretation of American political thought, have held that the theory of natural law was taken to be the corner stone of democracy by the westerners of the time.³⁵ About the only proof of this that has so far been offered is the democratic nature of the constitutions adopted in that section. But a government may be ever so democratic and a bill of rights ever so inclusive and yet no more importance be attached to the theory of laws or rights of nature than is the case in the writings of Jackson or Lincoln. The people themselves may be sufficient justification for popular government, and bills of rights are easily copied when that is the thing to do. If we are to believe the evidence furnished by the published debates of the state constitutional conventions, it was in the East, not on the frontier, that most use was made of natural-law ideas. The best examples

³³ *Letters, Speeches and Papers*, VIII, 307; also IV, 355, V, 49, 391.

³⁴ The best treatment of this subject is found in C. G. Haines, *The Law of Nature in State and Federal Decisions*, 25 *Yale Law Journal*, 617. One of the earliest and most widely used digests of American law contains a characteristic acceptance of such theory: "The civil state enforces this law of nature that binds men to regard the rights of others; . . . the civil laws of a state are those of nature modified and perfected in a manner suitable to it, and to the advantages of society; . . . the commands of the sovereign manifestly against the law of God, natural or revealed, are not to be obeyed." N. Dane, *Digest of American Law*, VI, 626.

of all are to be found in the convention of 1820-21 in Massachusetts and that of 1829-30 in Virginia. In Massachusetts both the conservatives and their opponents employ this philosophical weapon, and the speech of Story in favor of the rights of property is one of the most important of the period so far as concerns the theory of natural law.³⁵ In Virginia, on the contrary, we find the conservatives supporting their case on the basis of political expediency; while those advocating more liberal suffrage and apportionment provisions urge the necessity of following the immutable principles of natural law, particularly as they were set forth in the Virginia Declaration of Rights and the Declaration of Independence.³⁷ No debate with which I am familiar throws more light upon the basic meaning of the concept of natural law than does this one in Virginia.

In the many systematic political writings of the time there is the greatest possible diversity concerning the concept of natural law. Some authors, like Chipman, Hurlbut, Lieber, and Gerrit Smith, retain almost unchanged the traditional American theory that the basis of all laws and of all rights is to be found in the immutable truths taught by nature and to be learned by men through the use of reason, conscience, and the revealed word of God.³⁸ Others, like Calhoun, Brownson, Fitzhugh, and Hildreth, discard the idea that there are certain inalienable rights derived from nature, although in every case holding that there are basic laws or principles which underlie all government and all of the social and economic relationships of men. Of particular interest is the theory of the Roman Catholic Brownson that these laws can be learned only by and through the Church,³⁹ and the view of the capitalistic communist of Virginia that they are ascertained,

³⁵ Cf. Paxson, *History of the American Frontier*, 100-101.

³⁶ *Debates*, especially 83 ff., 122-136.

³⁷ *Debates, passim*. The speeches of Upshur and Leigh for the conservatives and of Campbell, Cooke, and Mercer for the radicals are particularly significant.

³⁸ Brief descriptions of the theories of these writers are to be found in Merriam, *History of American Political Theories*. It should be mentioned here that Lieber is placed in the natural-law group on the basis of his *Moral of Political Ethics*, for in his later *Civil Liberty and Self Government* the concept is not referred to.

³⁹ *Works*, XV, 347-48, 397, XVII, 9-12.

not by the use of reason as such, but rather from the lessons of experience.⁴⁰ In only one case does there appear to be a thorough and philosophical repudiation of the whole natural-law theory. Writing in 1826, six years before the appearance of "The Province of Jurisprudence Determined," Thomas Cooper employs a more than Austinian concept of law to prove that natural law has no existence.⁴¹ In the controversy that is as old as the history of law, he represents those who think of law in terms of enactment rather than in terms of principles of right and justice, principles which, for all their merit, lack the official sanction of political authority.

A theory that deals with law only in terms of enactment may be quite satisfactory to those who are content to confine their discussions of politics to the details of arrangement upon a previously accepted basis; it offers no aid or comfort to men who, like the opponents of the institution of slavery, desire to secure the acknowledgment of a theory of freedom which does not find recognition in the laws of the land. Not all of the arguments on either side of the slavery controversy were based upon the theory of a law superior to those of man's making, but it is certainly true that if the argument from natural law were taken from the theories advanced by either party comparatively little would be left. In some measure at least is it true that the history of the anti-slavery movement, considered from the point of view of political theory, is the gradual acceptance by a large part of the North of the theory expounded by Garrison and his followers in the early thirties. Unpopular as the abolitionist's theories then were, the decades which followed saw their gradual diffusion throughout the non-slaveholding parts of the country, and this meant a temporary renaissance of the theory of natural and divine law. Even those who opposed the teachings and tactics of the extremists declared that slavery violated the natural rights of man as set forth in the Declaration of Independence. The

⁴⁰ See Wright, "George Fitzhugh on the Failure of Liberty," *Southwestern Political and Social Science Quarterly*, VI, 219.

⁴¹ *Lectures on the Principles of Political Economy*, 53-54. Austin recognised the existence of natural law as "divine positive law," to be ascertained through revelation or the application of the principle of utility. Cooper made no similar concessions.

more philosophical of them tended to agree with the very able "Essays on Slavery" of William Ellery Channing, wherein it is contended that the God-given moral nature of man necessitates freedom both of body and of mind, and that slavery is not a question of expediency or economic advantage but of moral and natural right. Few there were among the opponents of slavery who were very philosophical about their arguments, but there were thousands who could declaim against it on the grounds that it infringed the laws of God. And it was but a step from doctrines of this sort to the philosophical anarchy of the "higher law" theory. This theory is usually linked with the famous speech of Seward on the eleventh of March, 1850, but Seward was a politician who was sufficiently aware that he was playing with dynamite to keep his ideas vague and even contradictory.⁴² Rather was it the abolitionists and men like Hosmer and Thoreau who carried this doctrine to the logical extreme of disobedience based upon the natural right of the individual to interpret the higher law for himself and to refuse to comply with any man-made rule in contradiction to it.⁴³

If the anti-slavery men made extensive use of the concept of natural law in their attacks upon that institution, so those favoring its retention employed their own interpretation of that supreme law in its defence. A few of them, like Paulding and Bledsoe, even declared that the practice of slavery was entirely in keeping with the principle of natural rights.⁴⁴ The ordinary argument, however, is that by the laws of nature and nature's God men are divided into ruling and serving classes.⁴⁵ It is therefore both idle and dangerous to attempt to make equal those who are by the highest of laws unequal. "That much lauded but nowhere accredited dogma of Mr. Jefferson, that 'all men are born equal'"⁴⁶ gives way to a theory of the natural inequality of man. In other words, the men of the South found it necessary

⁴² Works, I, 66 ff.

⁴³ In *The Higher Law* and *Civil Disobedience* respectively.

⁴⁴ In *Slavery in the United States* and *An Essay on Liberty and Slavery* respectively.

⁴⁵ Especially important are the writings of Calhoun and those by Harper, Hammond, Simms, and Dew in *The Pro-Slavery Argument*.

⁴⁶ Hammond, in *The Pro-Slavery Argument*, 109.

to correct certain traditional views concerning the rights of individuals, and to discard a considerable part of the Virginia Declaration of Rights and the Declaration of Independence; but they clung just as firmly as did their ancestors in 1776 to their own interpretation of the laws of nature and of God. Aristotle and St. Augustine supplanted Locke and Blackstone, but arguments from expediency did not supplant those from the principles of eternal law.

IV

The end of the Civil War marks a definite turning point, if, indeed, it does not mark at least a temporary stopping point, in the history of American political theory. For political theory seems to flourish only when one or more of the bases of the political order are questioned; and since the passage of the Reconstruction amendments we have been too absorbed in expansion and prosperity seriously to question the substantial rightness of American institutions. We have dealt much in political science, almost not at all in meaningful political philosophy. However, in spite of the extent to which professional political scientists of recent times have frowned upon the natural-law doctrine, there have been a few examples of its use.

First come those writings which may well be called hold-overs from old ways of thought. Most characteristic of this group are Cooley's "Constitutional Limitations" and Woolsey's "Political Science." In both of these the individualistic natural-rights theory developed nearly a century earlier is accepted without question and without any substantial change, and is, moreover, really relied upon as a basic part of the legal and political systems presented in them. In certain lesser writings on politics which seem to fall under this classification the theory of natural law is dealt with so vaguely as to impart an air of unreality reminding one of the famous Cheshire Cat's smile, which, it will be remembered, continued long after the cat itself had faded away.⁴⁷

⁴⁷ E.g., M. F. Morris, *History of the Development of Constitutional and Civil Liberty*; L. Abbott, *The Rights of Man*; J. M. Beck, *The Constitution of the United States*; F. Exline, *Politics*.

Of far greater importance is the use of theories of natural law in judicial decisions on public law during this period.⁴⁸ Probably the most important developments in American constitutional law since the reign of John Marshall fall within the categories "due process of law" and "liberty of contract." As I have before pointed out, these are theories of right, not of utility.⁴⁹ Furthermore, they represent the application of old theories of natural law, and particularly of natural rights, to problems never dreamed of by the founding fathers. And yet for all of the change in application, and for all the differences of terminology which from time to time appear, the basic idea is identical with the philosophy underlying many of the decisions and much of the juristic writing of the period of Marshall, Kent, and Story.

A second group of writers who have made some use of the theory of natural law includes those who have been influenced by post-Darwinian developments in the natural sciences. Woodrow Wilson, in "The State," presents an unthinking and rather confused version of the theory of Huxley, a theory that has little relation to the problems with which he is dealing. After once having quoted Huxley to the effect that the laws of nature are "only our way of stating as much as we have made out of that order," he finds no more use for the concept. Professor Giddings, more directly influenced by the evolutionary hypothesis, says that, although the old idea of natural rights has gone to the limbo of outworn creeds, there is a new theory of natural rights which is based upon principles that are "in harmony with the conditions of existence . . . natural rights are socially necessary norms of right, enforced by natural selection in the sphere of social relations and in the long run there can be neither legal nor moral rights that are not grounded in natural rights as thus defined."⁵⁰

The third and last group is composed of just one man. Professor F. M. Taylor enjoys the unique distinction of being the only writer in the last half-century to enter a real defense of the

⁴⁸ Haines, *op. cit.*

⁴⁹ In *Southwestern Political and Social Science Quarterly*, IV, 202.

⁵⁰ *Principles of Sociology*, 418-419.

concept of natural law in the realm of political theory.⁵¹ Although his was a very thoughtful piece of work, it seems to have attracted little attention at the time and long since to have gone the way of theories which are unrelated to the speculative fashion of the day.

V

It is hoped that even so summary a survey of the history of American theories of natural law as this makes it evident that that concept has been given many meanings and applications. Almost may it be said that there is no usage of natural law in the whole of political thought for which American thought does not offer a close parallel.

In general it may be affirmed that the differences of meaning and of content are traceable to three causes: changes in philosophical or intellectual standards, the varying types of theorists who found a use for natural-law concepts, and the differing causes in which these concepts have been invoked. It is hardly to be expected that the same meaning would be attached to "nature" by Cotton Mather and Tom Faine or by William Lloyd Garrison and John C. Calhoun. Their problem, their environment, and their basic philosophy differ too widely to permit of their having in mind the same idea when they appealed to the immutable laws of nature. So is it true that although all of those who have used the theory—revolutionary leaders, religious teachers, conservative statesmen and judges, defenders of the old order in the South, closet philosophers—have proclaimed their interpretation of nature to be as everlasting as nature itself, very few of them agree one with another. It seems, then, if we are to find out what natural law has meant to American political theorists we must separate the general question into its constituent parts and endeavor to ascertain the meaning of "natural", of natural "law", and the content of "natural law".

Of these queries the most difficult is the first, particularly in view of the fact that most of those who have talked about natural

⁵¹ *The Law of Nature*, Annals, I, 558. An able defense of natural law as a juristic concept is M. R. Cohen, "Jus Naturale Redivivum," *Philosophical Review*, XXV, 761.

laws have themselves had no clear notion of just what they meant by the term. This is, of course, a common characteristic of all forms of social and political theory: it is much easier to employ general terms without defining them than to hunt for precise words and make nice qualifications, and usually more effective.⁵² When it was the vogue to speak and write of the laws of nature very few stopped to consider the exact significance of that commonplace of theological, economic, and literary, as well as political, theory. Especially is this true of the use of the weapon of natural law in the heat of controversy. At such times it is the winning of a cause, not the discussion of problems of ontology or metaphysics, that occupies men's minds. The rationalizations come later, if at all. Nevertheless, an attempt to get at the philosophical meanings of "natural" as the concept has been used in American political theory is essential to an understanding of the concept. It is from this point of view that the following list of meanings is submitted:

- (1) Divine law or the law of God. Strongest in Puritan New England, but almost always present in some degree. Usually based upon a theistic concept of the universe, but in at least one very important period—the Revolution—to a large degree upon the principles of deism. In a few cases vaguely pantheistic, but never very clearly so.
- (2) The rational or reasonable; principles discovered out of the nature of things by human reason.
- (3) In accordance with human nature; principles inherent in the constitution of man.
- (4) In accordance with ancient law or custom, i.e., customs or laws that are so firmly established and of such long existence that they are held to be clearly fundamental in their nature.
- (5) Pertaining to the physical system of the universe.
- (6) The just or equitable.
- (7) The ideal as differentiated from or opposed to the actual.
- (8) Principles pertaining to the moral nature of man. Usually the same as number 6, but probably to be distinguished here because the emphasis is

Witness the contemporary fashion of bowing down in worship of the great god Progress; and yet how few, even among those who have written on the subject, have any real definition in mind for the concept. An excellent illustration of its loose usage is found in Herbert Hoover's *American Individualism* (1922).

always on the teachings of conscience. (9) The original as distinguished from the conventional. (10) Pertaining to the state of nature. (11) The appropriate or fitting. (12) In harmony with the conditions of growth or existence.

The second part of the problem set forth above calls for an answer to the question: what meaning has been given to natural "law"? Granted that men had in mind some notion of "natural", what did they desire to indicate when they spoke of the *laws* of nature? Negatively, they were not exponents of that theory of positive law that is usually associated with the name of Austin; such a theory, for all of Austin's talk about "divine positive law", relegates the laws of nature to the domain of ethics or morals. But the problem here is not so much the philosophy of law accepted by the writers under consideration (few of them, indeed, had more than the beginnings of a systematic legal philosophy); rather is it the meaning attached to one particular sort of laws, those of nature. In the case of the theorists who clung firmly to the idea of a divine legislator and of a divine law there is frequently present the notion of enacted law, of the laws of nature as being the decrees of an omnipotent legislative power. This, however, seems to be an analogy rather than a definition. In general, it is safe to say that natural law is held to be, not enacted law, but rules and principles existing *de facto*, that is, those inhering in the very nature of the Deity, of the universe, of man, of justice and right, or of civil society, to be discovered by reason, conscience, experience, or some combination of these. Furthermore, these laws or principles are thought of as applying to all alike, and to vary not at all. Since the days of the Roman jurisconsults, this part of the definition has changed but little: the laws of nature are universal in their application and immutable in their duration.

The last part of the attempt at definition has to do with the content given to the theory of natural law. A general answer was prefaced to the historical summary, and it is hardly possible to make a more definite statement than it provides. When it is remembered that natural law has included in its content defenses of revolutionary rights and of reactionary government,

natural equality and natural inequality, the inalienable right of majority rule and the immutable rights of vested interests, one can merely conclude that this content has varied with the needs of the user. There is a popular notion that the theory of natural rights has always been on the side of popular rights and privileges. The truth is quite different, for it has been used in support of the limitation of majority power almost as frequently as it has served to uphold the claims for an extension of the suffrage, and by John Quincy Adams and Story as well as by Jefferson.

The most spectacular, and probably the most important, use of natural law has been in connection with theories of what I have termed negative rights, that is, rights with which government may not interfere. But the American theory of natural law has been more than one of rights alone. The divine law of the Puritans, of Brownson, to a considerable extent of James Wilson and other writers of his time; the positive principles of the post-Revolutionary philosophy of Adams; the natural-law defense of slavery; the natural-science theories of Woodrow Wilson and others—all of these have been theories of positive right rather than of negative rights. In them many principles are advanced or justified: the law of the Ten Commandments, the divine character and function of government, the leadership of a natural aristocracy, the separation of political powers, the rules of international relationships, the rule of the majority, the superiority of the white race, the existence of principles superior to the Constitution, and almost innumerable standards of political and legal right and justice.

Nevertheless, it is the theory of natural rights that has been the characteristic American interpretation of natural law. Developing first in this country as an argument from the nature of the British constitution, it was soon set forth as an independent theory of politics. Becoming the accepted philosophy of the age, it inevitably found its way into the Declaration of Independence and the state bills of rights. Because it was the political staple of the time, it was used even in the struggle over the ratification of the Constitution, a controversy in which it had little logical place. After that it remained as the most important of American

political ideas for well over half a century. So strong was its hold that almost everyone who needed theoretical justification for a political opinion turned to it as a matter of course. Even to the present time, those who look backward for their political ideas cling to it in spite of the change in fashion.

So far as the definite content of natural rights is concerned, there was surprisingly little change between the Revolution and the Civil War. The rights, substantive and procedural, which were set forth in the Virginia Declaration of Rights are faithfully reflected in the works of Cooley and Woolsey. The slavery controversy, so far as the theory of rights is concerned, represents the application of the earlier theories to a specific situation rather than the formulation of new theories. Until recently, the bills of rights in state constitutions were almost exact copies of the earlier documents. Of late these bills of rights have been greatly expanded, but in the name of legal or constitutional rather than natural rights. The trimming down of procedural rights and the building up of the substantive side of the due process of law and the liberty of contract concepts is the most important change in the theory of natural rights what has taken place since the Revolution. In other words, the hold-over effect of the concept natural rights has been the protection of rights of property rather than of life and liberty. The original purpose of the theory has, for the time at least, ceased to exist, because, since the emancipation of the slaves, there has been relatively little cause for anxiety about the safety of political rights and liberties. But that is not to say that either the inherent validity or the potential usefulness of the concept of a supreme law of nature is of the past. After all, the important thing about it is not its content in any one time, but the fact that it is nothing more nor less than man's way of expressing his desire to find a solution for the insoluble, a formula to stand for the great political unknown, or, to put it differently, the attempt to find some higher source for the principles of justice than the will of the individuals who, for the moment, determine the positive law of the state. Since the problem is a fundamental one in political thought, it is doubtless as old as civil institutions. Almost the first record

we have of its attempted solution is the argument of Socrates and the later Sophists; and, although that philosopher went to his death rather than disobey the laws of his state, in the "Republic" we have the greatest of all arguments that justice is something more than the shifting rules of a civil society.

Most criticisms of natural law seem to me to miss the basic point involved just because they confuse the concept with its temporary meaning in any given time and place. Certainly it is necessary to do more than to point out that it has at times been of a harmfully individualistic or intellectualistic or *a priori* character. If one is willing to accept the doctrine of Professor Burgess that it is for the state and the state alone to define the law and to set the bounds to all private rights, then there is logical ground for denying the "truth" of the natural law doctrine. But one cannot be so sure that there will not be others who will some day deny the validity of certain of the laws of the state and proceed to argue against them with the aid of theories derived from this same concept; as I have pointed out, such things have been done in our own country. Or if one agrees with President Goodnow that a policy of opportunism, rather than one of working toward ideals, is best calculated to get desirable results in this day and time, again there is logical reason for doubting the worth of the notion of natural law, always providing that the opportunist is not taking pride in an absence of hard and fast ideals when what he really has are inarticulate ideals. Nor is this talk of "hard and fast" standards fair to the theorists of the past, for they were not so neglectful of the experiences and needs of their times as present-day scholars sometimes like to believe. The new "natural law with a changing content" is really, as James said of his pragmatism, a new name for old ways of thought. Natural law has really altered in its content as political and philosophical conditions have changed; nor is this inconsistent with the earlier statement that each theorist ordinarily views his own interpretation as a lasting one.

Again it is stated that we know that there are no laws or rights of nature. But is not such an opinion incapable of proof unless we predetermine its decision by our definition of law?

Even Austin was a follower of Bentham. What person would attempt to argue that the "greatest good of the greatest number" is a principle capable of exact proof, unless certain other unprovable premises are assumed? "Thinking makes it so", in politics and law as well as in morals, and if men from time immemorial have not always been content with the ideals achieved in their established systems of government, if they have felt the need for something more than the positive legal rules of their time and place, if they have believed that justice is not entirely fulfilled by the laws laid down by the majority or the ruling faction of the moment, so is it at least possible that in the future the concept of a law higher than any of man's making will return to its old place of importance.

SELECTION AND TENURE OF BUREAU CHIEFS IN THE NATIONAL ADMINISTRATION OF THE UNITED STATES

ARTHUR W. MACMAHON

Columbia University

The bureau chiefs are the key figures in national administration.¹ The units that they direct are inclusive enough to lend themselves to the purposes of supervision and coördination and to bring their heads in touch with the machinery of budget-making and legislation, but sufficiently focused to preserve for them a saving contact with details and technique. The importance of their positions can hardly be exaggerated.

Who are the present bureau chiefs? What has been their training? To what extent have they been recruited within the services they now direct, and to what extent from outside? What factors have influenced their selection? How long have they been in office? Judging by their experience as well as by the frequency with which their predecessors have been changed, how secure seems to be their tenure? These are the questions to which this paper is addressed. Its purpose is modest; it is not expected to uncover findings not already known, at least in general terms.² A systematic canvass of the bare facts, however, will help to a more precise understanding of the actual situation and perhaps facilitate discussions of our working theory of the relation of politics to administration. The time

¹ This statement begs the question of the further development of a system of under-secretaries and assistant-secretaries, now apparently well under way but still undefined in direction. The writer hopes in a later article to deal with this question and to examine the selection and tenure of under-secretaries and assistant-secretaries in the national government.

² See especially the impersonal summary in Lewis Mayers' valuable book on *The Federal Service* (1922), 99-110. The useful volumes in the series of Service Monographs of the United States Government, issued by the Institute for Government Research, do not, as a rule, mention the personal aspects of the history of the units which are so carefully traced from the statutory side.

is opportune for taking stock. Within the past fifteen years each of the great parties has swept into the seats of power after a period of deprivation.

In determining the scope of this inquiry, the term bureau is used somewhat broadly, to denote any major subdivision of an executive department.³ No niceties of discrimination are attempted in the application of this definition. The line is hard to draw, in view of the lack of a standardized terminology in national administration and the inherent disparity of its various activities. In general, it excludes the congeries of units—appointments, supplies, mails and files, library, publications, and the like—which, clustering at the center of the department, are largely an expansion of the venerable office of chief clerk. The bureaus that fall within the definition differ widely among themselves. Some employ many thousands; others less than a hundred. The degree of self-direction with which they are invested varies greatly, even in respect to business routine; matters of personnel, for example, which are handled at a central point in the Department of Commerce, are relatively decentralized in the Department of the Interior. The term bureau, as it is employed in these pages, is unavoidably and consciously subject to these irregularities of meaning.

The bureaus under inquiry are confined to the departments of the Treasury, Interior, Agriculture, Commerce, and Labor. Peculiar conditions in the other departments, not to mention considerations of space, make it advisable to omit them altogether. In the War and Navy departments the heads of the units that correspond to bureaus are commissioned officers. The Department of State is moving rapidly toward a situation in which the heads of the various departmental bureaus in Washington, to a greater extent even than today, will have the status of foreign service officer and will be drawn from a reser-

³ This statement disregards the intermediate divisions that are tending to develop in departments which, like Treasury and Agriculture, have not only an under-secretary, but also several virtual assistant-secretaries, each assigned to a group of bureaus or to a particular phase of work that ramifies widely through the department.

voir of personnel recruited and developed through promotion under the department's own system.⁴ The Department of Justice is unique in its relation both to the departmental solicitors and also to the district attorneys who conduct the heterogeneous business arising within their regions; the divisions of the central staff for the supervision of various classes of actions are relatively informal, and the appointment of assistant attorneys general and their assignment to head these divisions still tend to be personal if not political.⁵ The Post Office Department can be disregarded because, apart from the unusual degree of unity that characterizes its activities, its central staff is now almost wholly classified and chosen by promotion, excepting the four assistant postmasters general.⁶ The independent commissions and boards also are omitted—although some, in every real sense, are departments with an elaborate bureau structure;⁷ the multiple character of their heads, however,

⁴ At the present time the individuals in charge of seven of fifteen units in the Department of State happen to have the status of "foreign service officer" in accordance with the act of May 24, 1924. Six of the remaining eight have a civil service background, although all eight were appointed as "drafting officers," under the provision exempting "officers to aid in important drafting work in the Department of State." (Civil Service Rule II, sec. 3, Schedule A, subd. II.)

⁵ "Attorneys, assistant attorneys, and special assistant attorneys" are specifically excepted from examination. (Civil Service Rule II, sec. 3, Schedule A, subd. I). The assistant attorney general assigned to the customs division (located in New York City), however, has been in the service of the United States since 1899, when he started as a clerk of the Board of General Appraisers. At least one other of the seven assistant attorneys general had long prior service in the Department of Justice. The head of the Bureau of Investigation (an excepted position), entered the department as special assistant in 1919 and was appointed director in 1924. The position of superintendent of prisons is specifically excepted, but Mr. L. C. White, who in 1925 replaced Heber H. Votaw, brother-in-law of the late President Harding, was at one time superintendent of industries at Sing Sing prison and was for three years in the same work in the department of corrections of New York City. Mr. White died July 1, 1926.

⁶ The last appointed of the four, Robert S. Regar, third assistant postmaster general (in charge of fiscal divisions), rose from stenographer and was chief clerk of the department at the time of his appointment in 1925.

⁷ The Interstate Commerce Commission, for example, has twelve bureaus. The position of chief of bureau is in the competitive classified service in seven cases (in five of which the present incumbents were chosen by promotion), is excepted from examination in the case of four, and in one instance is a presidential office.

introduces alien problems. The few unattached single-headed bureaus are likewise passed without detailed comment.⁸

Selection on the basis of congruous training and stability of tenure may be encouraged by law and by custom. Fundamentally, of course, a well-understood tradition is more important than legal formalities. In such situations, however, law reacts profoundly on the development of custom. The individual records that are summarized in later paragraphs testify to the fact, for example, that (although the nature of the work is a primary factor) permanency of tenure is on the whole less likely when the head of a service is named by the President with the consent of the Senate than when his appointment is left to the head of the department, and the line of least resistance, to say the least, favors the promotions that are the usual result of the application of the merit system to the higher offices. Of the 54 bureaus treated in this paper, the chiefs of 22 are appointed, without formal restriction,⁹ by the President and Senate. In the Lighthouse and Reclamation Services, the President alone selects. The

⁸ The head of the Government Printing Office shifts regularly with party changes, although the law states that the occupant of the position "must be a practical printer and versed in the art of book-binding" (28 U. S. Stat. L., 603). There have been twelve Public Printers since 1876. George H. Carter, public printer since 1921, received his practical experience as clerk of the joint committee on printing for some years previously. The General Accounting Office is presumed to enjoy a special degree of independence, in view of the fifteen-year term and extraordinary procedure in removal prescribed for the comptroller general in the Budget and Accounting Act of 1921. John R. McCarl, the first incumbent, had a political background as secretary to Senator G. W. Norris for four years and then as executive secretary of the Republican Congressional Campaign Committee from 1918 to 1921. The unattached Veterans' Bureau, created by statute in 1921, has been trying since March, 1923, under the direction of a former army officer, Brig. Gen. F. T. Hines, to forget the episode of its first director, now in jail.

⁹ The term restriction, as used here, does not cover such occasional stipulations in the organic acts as the provision that the Director of the Bureau of Mines must be "thoroughly equipped by technical education and experience"; or that the Commissioner of Fisheries must be a "person of scientific and practical acquaintance" with the problems involved; or that the chief of the Bureau of Animal Industry must be a "competent veterinary surgeon"; or that the Director of the Geological Survey must not be financially interested in mineral lands. Regarding the uncertain force of such provisions (apart from their possible value in furthering tradition) see 34 *Opinions of the Attorney General*, 96 (1924), involving the present Public Printer's qualifications.

statutes are usually silent regarding the matter of term. Five years, however, are specified for the Comptroller of the Currency and the Director of the Mint, regarding each of whom the law adds the unique provision that if the President removes an incumbent before the expiration of his term, he must communicate his reasons to the Senate; four years are specified for the Commissioner of Labor Statistics, the Director of the Coast and Geodetic Survey, and (by regulations that the President might change) for the Surgeon General of the Public Health Service, with one renewal only permitted in the last-named case. The heads of the Coast Guard, the Coast and Geodetic Survey, and (under a regulation) the Public Health Service are appointed by the President with the consent of the Senate, but the President's scope in selection is limited by the fact that these three bureaus now have peculiar systems for the recruitment and promotion of their commissioned personnel. The chiefs of the other bureaus under consideration are named by the heads of departments, and fall normally in the classified service. This group comprises all of the units in the Department of Agriculture except the Weather Service; the Park Service and (until 1926) the Reclamation Service in the Interior Department; the Bureau of Naturalization in the Department of Labor; and in the Treasury Department, the Bureau of Engraving and Printing, the Office of the Supervising Architect, the Director of Supply, the Director of Customs (although the present Director of Customs was appointed without examination under the dispensation of a special executive order), and the Commissioner of the Public Debt, not to mention certain other fiscal divisions that are not considered here because they fall a little short of the stature of bureaus.

The answer to the questions raised in this paper is sought in a briefly biographical survey of the individuals who are today the chiefs of bureau.¹⁰ Some attention is given to back-

¹⁰ The information is drawn, among other sources, from considerable correspondence, interviews, and the files of personnel divisions. The pity is that so hasty and cold-blooded a summary will not permit the enthusiasm and human detail which are deserved by many an instance of distinguished but obscure and often self-sacrificing public service, and that the mere names of the bureaus must suffice to remind the reader of the rich actualities of their work.

ground in each case, and the frequency and type of prior appointments are noted. The present incumbent, however, is always the focus, and the mode of his selection and his experience are allowed to dictate matters of arrangement. The bureaus are grouped on this basis. Group I includes those which have chiefs appointed under the general merit system administered by the United States Civil Service Commission; the course of the inquiry here runs from the instances of selection by promotion, through the cases of appointment from outside without competitive examination, to the examples of appointment directly by competitive examination. Group II comprises the bureaus which have their own systems of examination and promotion and of which the heads, although presidentially appointed, are taken from within. Group III brings together the bureaus that are at present directed by men who, before becoming chief, served in them or in some cognate employment in the national administration, rendering their selection by the President and Senate, although legally unconditioned, virtually a promotion. The final group (IV) assembles the bureaus which are now headed by chiefs who had no experience in national administration prior to their appointment. After such an individual roll-call of all the bureaus, the discussion can return at the end to some considerations of a general nature.

The question of the rôle of partisan politics overhangs this inquiry, but it is not the exclusive, nor even the most fundamental, problem involved. Beneath it are the problems of responsibility and sympathy in a bureaucracy. Beneath it, too, are problems that beset all administration, private as well as public: the appropriateness of technical training and experience as a preparation for supervisory duties; the value of the injection of new blood at the top in comparison with seasoned service; the increasing or diminishing returns from long tenure.

I

The application of the merit system to the position of bureau chief is already extensive, involving at least twenty-six bureaus, many of which are of great size and some of which carry on

troublesome regulatory activities as well as functions of research and education. The results are impressive. Experience with the choice of bureau chiefs directly by competitive examination, however, has been limited, and is likely to remain so. The reason for this is two-fold: (1) a well-running merit system tends to fill higher positions, like those of bureau chiefs, by promotion, thus pushing the task of original selection by examination back into ranges of employment where the desiderata are less complicated; and (2) when bureau chiefs have been brought directly from private life into classified positions, it has sometimes been accomplished under the civil service rule (Rule II, Sec. 10) which permits the Commission to authorize the appointment without competitive examination of a person whom a department represents to be uniquely qualified and available. Competitive examinations for the selection of bureau chiefs are therefore rare, although two instances have occurred very recently.

1.

Nearly four-fifths of the present bureau chiefs whose positions are classified attained them by promotion. Whatever examinations they took happened relatively early in their careers.¹¹ A classified status, once acquired by an individual and kept alive by avoiding too long separation from the government employment, is a permanently vested value.¹² On it—

¹¹ A check of the service-record cards in the files of the Civil Service Commission seems to indicate that not a single bureau chief whose position is classified and who obtained it by promotion took an examination at any late stage in his career.

¹² An interesting example of how long a classified status can be preserved under extraordinary circumstances is discussed below, p. 564, in the case of Elwood Mead, who left the Department of Agriculture in 1907 but preserved his status by working for a foreign government and the state of California until 1924, when by reinstatement he was put without examination in the classified position of Director of Reclamation. It may be added that six of the men who are now bureau chiefs by presidential appointment preserve, personally, the classified status which they gained in prior government service: C. F. Marvin, Weather Bureau; G. K. Burgess, Bureau of Standards; Henry O'Malley, Bureau of Fisheries; D. H. Hoover, Steamboat Inspection Service; W. W. Steuart, Bureau of Census; Ethelbert Stewart, Bureau of Labor Statistics. This does not carry any protection in their present positions, but indirectly is an anchor to windward.

particularly in the professional service¹³—the civil servant can slowly build increments of salary and grade, often without undergoing further formal examinations. Some of the present generation of bureau chiefs, indeed, never took an examination at all; they began to work for the government before the branches in which they were then employed had been put under the merit system, and when it was extended they were covered into the classified competitive service.¹⁴

Promotion, in some cases, has been more a change in the job than a change of jobs. Dr. L. O. Howard, chief of the Bureau of Entomology, was assistant entomologist in 1878 at the age of twenty-one, when the enterprise that has since evolved into a large bureau during his life-time, and largely under his direction, consisted of little more than the personal laboratory tables of the entomologist and two assistants. When Dr. Whitney, the only head the Bureau of Soils has yet had, took up in 1892 in Washington the investigations that developed into this bureau, he asked for two laborers at \$50 or \$60 a month and the part-time services of a stenographer. These men did not go to the mountain; it came to them. Promotion, however, is oftener the cumulation of changes of compensation, title, and degree of responsibility; sometimes of transfers also. In a department like Agriculture, the memoranda submitted to the Secretary by the bureau chiefs and others in favor of the advance of particular subordinates are not unlike the statements from the head of a faculty in support of recommended promotions—and doubtless as fallible. Publications are cited; particular

¹³ See the provisions in Sec. 13 of the Classification Act of March 4, 1923, which state that the professional and scientific service shall include "all classes of positions the duties of which are to perform routine, advisory, administrative, or research work which is based upon the established principle of a profession or science, and which requires professional, scientific, or technical training equivalent to that represented by graduation from a college or university of recognized standing." Within this service are seven grades, compensation in the lowest beginning at \$1,860, and running to \$7,500 for the highest grade.

¹⁴ In the Department of Agriculture, for example, L. O. Howard, chief of the Bureau of Entomology, Milton Whitney, chief of the Bureau of Soils, and E. W. Allen, director of the Office of Experiment Stations, were thus covered into the classified service about 1895.

instances of initiative in research or administration are stressed.¹⁵ Departmental committees may be involved. Thus the head of the Bureau of Chemistry, writing to the Secretary of Agriculture in 1923 to recommend an increase of salary for J. K. Haywood, chief of the miscellaneous division and chairman of the Insecticide and Fungicide Board, added: "The Efficiency Committee of the bureau, composed of three laboratory chiefs, were asked to give special consideration to this matter, because I have found that colleagues generally have a pretty fair estimate of a man's worth."

How varied are the avenues of approach when the position of bureau chief is in the classified service, and how stable the service becomes, are revealed by considering, bureau by bureau, the records of the present chiefs who achieved such positions by promotion.

The distinguished head of the Bureau of Entomology, Dr. L. O. Howard, entered the service of the Department of Agriculture at the age of twenty-one, a year after his graduation from Cornell University in 1877. His graduate work was done later at Georgetown, while he was employed by the government. First as assistant entomologist, and after 1894 as chief entomologist, his career has been virtually the history of a bureau. Continuity of leadership had been present in this work from the start. The first entomologist in the newly created Department of Agriculture, Townsend Glover, served from 1863 to 1878; his successor, C. V. Riley, from that time until 1894, except for a brief interlude between 1879 and 1881. In 1894, Dr. Howard was put in charge of the division that a decade later was renamed the Bureau of Entomology. His salary in 1894 was \$2,500; it advanced by stages to \$6,500 in 1925.

¹⁵Such comments as these, for example, abound in the departmental memoranda recommending promotions: "The investigation of American hops which he (Mr. Stockberger) undertook and carried out as a new line of investigation is regarded as a model of crop investigation in its relation to economic and agricultural conditions." "One of the particular accomplishments of Mr. Warburton of an investigational nature was his development and establishment of selections for the Sixty-Day and Kherson Oats."

Milton Whitney, chief of the Bureau of Soils, has been even more completely the creator of the bureau which he heads. Born in 1860, he had a three-year course in chemistry at Johns Hopkins University, and between 1883 and 1891 was connected (in the capacities of assistant chemist, superintendent of the state experiment station, and professor of chemistry) with state institutions in Connecticut, North Carolina, and South Carolina. In 1891 he became soil physicist at the Maryland Experiment Station. In the next year he was brought to the Weather Bureau to carry on the soil investigations he had already begun. They were destined to expand into the present system of soil classification and of soil mapping which has now covered one-third of the area of the continental United States. In 1894 these investigations were segregated in a division of soils, with Dr. Whitney as chief at \$2,000; in 1904 this became the Bureau of Soils. Dr. Whitney advanced without examination through various salary ranges to the level of \$6,000 in 1925.

The Bureau of Plant Industry—in some respects the greatest galaxy of units of applied research in the world and the fertile matrix from which activities as varied as farm demonstration work and agricultural economics have sprung—has had only two chiefs. In 1913 William Alton Taylor succeeded Dr. Beverly T. Galloway,¹⁶ who had been continuously head of the bureau from 1901, when it was formed by the consolidation of the then existing divisions of agrostology, botany, gardens and grounds pomology, and vegetable physiology and pathology. Dr. Taylor was born in 1863 and was graduated from the Michigan Agricultural College in 1888. After three years of practical experience on a fruit farm and nursery, he entered the Department of Agriculture in 1891, and was for ten years an assistant pomologist (beginning at \$1,600), and for nine years thereafter pomologist in charge of field investigations. In 1910 he became

¹⁶ Dr. Galloway resigned to become Assistant Secretary of Agriculture. Later he was dean of the N. Y. State College of Agriculture at Cornell University, but he is now pathologist and consulting specialist in the office of foreign seed and plant introduction in the Bureau of Plant Industry—a refreshing case of the return of a research-worker from the diversions of administration.

the assistant chief of the Bureau of Plant Industry at \$4,000. In recommending to the Secretary on March 17, 1913, that he be advanced to chief at \$5,000, Dr. Galloway wrote: "Mr. Taylor has been in the service of the Department continuously since February 24, 1891, and has proven to be one of our most efficient administrative officers as well as a very thorough investigator." He added that he had given "utmost satisfaction as assistant chief."

The present head of the Bureau of the Biological Survey, Edward W. Nelson, is the oldest bureau chief in active service. In requesting, in 1925, that the Civil Service Commission authorize his continuance in office two years longer, despite the terms of the Retirement Act, the Department said: "Dr. Nelson is strong, vigorous and active, and his services to the Department are of increasing value and should be continued beyond the date of his eligibility for retirement. He has accumulated knowledge and experience during more than fifty years . . . which are of inestimable value to the Department in carrying on the work of the Bureau." The service referred to began in 1877 at the age of twenty-two, when (having been graduated from the Cook County Normal School in 1875) he was on the revenue cutter that searched for the Arctic ship Jeannette; and he was engaged in observational work in Alaska until 1881. Six years of ranching in Arizona followed, broken by a turn of government service. In 1890 he joined what has since grown into the Bureau of the Biological Survey, climbed through various salary levels from \$1,200, became chief field naturalist in 1907, was put in charge of biological investigations in 1913, and became assistant chief in 1914, and finally chief in 1916. He succeeded Henry W. Henshaw, just as Henshaw in 1910 followed Dr. C. Hart Merriam, the head of the Biological Survey work since it began in 1885 with three employees and an appropriation of \$5,000.

Three bureau chiefs span the whole history of the great Bureau of Animal Industry from its organization in 1884 to the present day. Dr. D. E. Salmon, its first head, was succeeded in 1905 by his assistant, Dr. A. D. Melvin; and on Melvin's death in

1917, Dr. J. R. Mohler, then assistant chief of the bureau, was advanced to chief. Dr. Mohler's service with the bureau began in 1897 at the age of twenty-two. He had already had schooling at Temple College and the University of Pennsylvania, and he subsequently took work in the medical department of Marquette University and the Alfort Veterinary College. His duties in the bureau were first those of an assistant inspector in the quarantine division at Kansas City at \$1,200. In 1899 he was brought to Washington and transferred to the pathological division, of which he first became assistant chief, and then chief, serving in this position for twelve years until 1914, when he was made assistant chief of the bureau itself.

The chief of the Forest Service, W. B. Greeley, was educated as a forester and has spent his whole life (apart from some service as chief of the Forestry Section, A. E. F.) in the United States Forest Service. Having been graduated from the University of California in 1901 and the Yale Forestry School in 1904, he entered the Forestry Service by civil service examination at the age of twenty-five. He first served as a forest assistant at \$1,000 and, in successive years, as a forest inspector in charge of timber sales in the field, as a forest supervisor in charge of one of the national forests, and as associate chief of the division of timber sales at Washington. From 1908 to 1911 he was a district forester, and from 1911 to 1917 an associate forester in charge of the branch of silviculture, becoming chief of the bureau on April 16, 1920. He rose in this way to the direction of a service relatively characterized by stability of tenure.¹⁷

¹⁷ Dr. B. E. Fernow—a German by birth, educated in the Forest Academy at Muenden and at the University of Koenigsberg—was chief of the division of forestry when it was first definitely organized in 1887 and continued in charge until 1898, when he went into academic work. Gifford Pinchot, a graduate of Yale, 1889, who had studied forestry abroad and at Biltmore, was appointed head in 1898 and served until January 7, 1901. In the meantime the division was made a bureau in 1901 and named the Forest Service in 1905, when the national forests were transferred to the Department of Agriculture. Pinchot's removal by President Taft, as a result of the controversy with Secretary Ballinger over the Alaskan claims, helped to make political history. Pinchot's successor, Henry S. Graves, was head of the famous Yale Forestry School at the time of his appointment. He returned to academic work after his resignation as chief of the Forest Service in 1920, and is again dean of the Yale Forestry School.

Having taken his graduate degree at Göttingen in 1890 at the age of twenty-six, Dr. Edwin W. Allen immediately entered the Department of Agriculture and as early as 1893 was assistant director of the Office of Experiment Stations which had existed since 1887, and of which Dr. A. C. True had just been made director.¹⁸ When, in 1915, the States Relations Service was founded with Dr. True as its first and only head, Dr. Allen was made chief of the division of experiment stations. In 1923 the States Relations Service was resolved into its component elements, and Dr. Allen became the head of a bureau instead of a division, and in addition was made assistant director of scientific work for the whole department.

Clyde W. Warburton, director of the Agricultural Extension Service, has been in the service of the Department of Agriculture from the beginning of his career. Born in 1879, he joined the staff of the Bureau of Plant Industry promptly after his graduation from Iowa State College in 1903. Early in his service with that bureau he had contact with the crop-diversification demonstrations in Texas, provoked by the boll weevil ravages, out of which the county agent and extension system evolved. His government service was broken in 1911 by a short term in editorial work in the agricultural publishing field. In 1912, however, he re-entered the employment of the Department of Agriculture by a special civil service examination. When the States Relations Service was disintegrated, Mr. Warburton (then agronomist at a salary of \$5,000) was put at the head of the now separate Agricultural Extension Service and was made Director of Extension Work for the whole department.

Joseph W. T. Duvel was appointed chief of the recently organized Grain Futures Administration in 1925. He was senior grain exchange supervisor in the Chicago district and his promotion took the form of a transfer from the field service, which the Civil Service Commission authorized by certificate.

¹⁸ The first director was W. O. Atwater, professor of chemistry at Wesleyan University and director of the Connecticut Agricultural Experiment Station. He resigned in 1891 and was succeeded by A. W. Harris. Dr. True entered on the editorial side of the work and was assistant director when Mr. Harris resigned in 1893.

This final advancement crowned a long specialization on problems of grain standardization. Born in 1873, he received his bachelor's degree at Ohio State University in 1897 and a graduate degree at the University of Michigan in 1902. In 1898-1899 he was assistant botanist at the Ohio State Experiment Station. In 1902 he joined the Bureau of Plant Industry. As early as 1907, in recommending an advance in salary to \$2,250, the head of that bureau said: "This recommendation is made largely on account of Dr. Duvel's work in the development of the moisture-testing apparatus which has been introduced extensively in the grading of grain throughout the greater part of the country, and his familiarity with the conditions and problems to be solved in the work of grain standardization for which he shows a special aptitude." He was in charge of this work after 1910. For a while, in 1919, he was employed by a big Canadian concern at a salary about as large as a bureau chief receives, but he returned to government service, "the work of which he looks upon as more congenial than commercial life." In asking for his reinstatement, Chester Morrill, then in charge, wrote on December 30, 1921: "Dr. Duvel has been largely responsible for the organization and development of the governmental work in grain standardization in this country."

When the separate Bureau of Dairying supplanted the former dairy division of the Bureau of Animal Industry under an act of May 29, 1924, Carl W. Larson, the chief of the division, became by transfer the head of the new bureau. Dr. Larson had been made division chief in 1921, when the Secretary of Agriculture was told that "Mr. Rawl, chief of the dairy division and assistant chief of this bureau (Animal Industry) has twice recommended that he be relieved as chief of the dairy division and that Dr. Larson be appointed to that position." He had originally entered the division as a dairy expert in 1917 in connection with war work. His appointment without competitive examination was authorized at that time under Rule II, Sec. 10.¹⁹ Dr. Larson received his bachelor's diploma from Iowa State College in 1906 and his higher degree from Columbia

¹⁹ *Infra*, p. 571.

University in 1916. Between 1906 and 1915 he was instructor, assistant professor, and professor in charge of the dairy husbandry department at Pennsylvania State College, and in 1916-1917 he was assistant professor of agriculture at Columbia University.

The position of Charles L. Marlatt, chairman of the Horticultural Board, is analogous to that of a bureau chief, although he is connected with the Bureau of Entomology, having been assistant chief since 1894 and associate chief in charge of regulatory work since 1922. When he entered the service of the United States in 1891 he was twenty-six years old, and had been two years assistant professor in the Kansas Agricultural College, from which he was graduated in 1884. Writing at the time he was given an honorary degree by that college in 1921, the Director of Scientific Work in the Department of Agriculture recalled Dr. Marlatt's primary rôle in the attempt to get a national plant quarantine system: "Every attempt . . . was met with the bitter opposition of the commercial interests and little headway was made for some time. In fact those responsible for the leadership of this movement became discouraged and practically gave it up. Not so with Mr. Marlatt. Almost single-handed, he began a new campaign for a modified and restricted quarantine of the importation of materials liable to introduce these pests and diseases. As a result of a number of years' work the federal horticultural law was finally established in 1912, and Mr. Marlatt, who had shown his grasp of the situation and his courage and patience in overcoming obstacles, was placed in charge of the difficult task of administration . . . This undoubtedly stands today as the greatest single monument of Mr. Marlatt's work and achievement."

A graduate of Cornell University in 1896, John K. Haywood, chairman of the Insecticide and Fungicide Board, entered the Bureau of Chemistry almost immediately, standing highest in the examination. Later, while in the employ of the government, he took a medical degree at George Washington University. A notable bit of service by him, commended by the chief of the Bureau of Chemistry in 1907, was collecting "the evidence

which was used in the courts to close the smelters in the West which were destroying government forests and the vegetation of hundreds of farmers. His evidence was of such a conclusive character that the Supreme Court sustained the rulings of the courts below and confirmed the decision. The government relied solely upon Mr. Haywood's testimony in this great case." But Mr. Haywood's chief interest lay in insecticide problems. After 1902 he was chief of the Insecticide and Agricultural Water Laboratory, and in 1905 he was made head of the Miscellaneous Division, which included that laboratory. He was a member of the Insecticide and Fungicide Board from its inauguration in 1911, and in 1913 he replaced Dr. Marion Dorsett as chairman of the board. Writing on December 27, 1923, the head of the Bureau of Chemistry remarked, apropos of a recommendation for an increase in pay: "I think it is generally conceded that Dr. Haywood has done more than any other man in the country in the development of the chemistry of insecticides and fungicides."

Dr. Cottrell, director of the Fixed Nitrogen Research Laboratory, is an outstanding example of the spirit of applied research in government service. Most of his official work has been with the Bureau of Mines. Born in 1877 and a graduate of the University of California in 1896, he finished his graduate work at Leipzig in 1902, and until 1911 was a teacher of chemistry at the University of California. He then entered the Bureau of Mines, became its chief metallurgist in 1916, and its assistant director in 1919. In 1920 he was appointed director of the Bureau of Mines, but on the understanding that he would serve only a short time. Resigning, he took up the analysis of nitrates, serving the government as a consultant on a per diem compensation while he familiarized himself with the problem. His classified status had been preserved in the meantime, and in September, 1922, he was transferred to the directorship of the Fixed Nitrogen Research Laboratory, taking the place of Dr. Tolman, who had gone to the California Institute of Technology. In January, 1924, the Secretary of Agriculture congratulated Dr. Cottrell, and with him the whole scientific service of the government,

"upon the honor which has been conferred upon you by the committee of the American Chemical Society in including your name in the list of thirty-three Americans who have achieved eminence in chemistry."²⁰ Dr. Cottrell was once instrumental in establishing the Research Foundation to meet the problem of inventors who wish not to take a personal profit from their discoveries, but to have the earnings used to stimulate further research.

In the Interior Department there has been one bureau headship—that of the Reclamation Service—which was a classified position and has been filled recently without direct examination through as interesting a combination of promotion and transfer as the present civil service affords. The new Commissioner of Reclamation, the eminent Elwood Mead, has had a varied but cumulative experience. Born in 1858, he finished his undergraduate work at Purdue University in 1882 and was given a degree in civil engineering from Iowa State College the next year. After a brief turn with the United States engineers and some teaching in the Colorado Agricultural College, he served as territorial and state engineer of Wyoming from 1888 to 1899. From 1897 to 1907 he had charge of the studies in irrigation made by the United States Department of Agriculture, being chief of the irrigation and drainage investigations in the Office of Experiment Stations. When he resigned in 1907, it was to go to Australia as chairman of the Rivers and Water Supply Commission of the state of Victoria. Returning from this work to the United States in 1915, he at once became chairman of the California Land Settlement Board, then receiving nation-wide attention because of the colony that the board was settling at Duranam. At the same time, he resumed his former relations with the University of California, as professor of rural institutions. In 1924 he was appointed Commissioner of Reclamation in the Department of the Interior. No examination was neces-

²⁰ The other three on the list from the District of Columbia were: Harvey W. Wiley, so long chief of the Bureau of Chemistry; W. F. Hillebrand, chief chemist of the Bureau of Standards; and F. W. Clarke, chief chemist of the Geological Survey.

sary; technically it was a case of transfer, for Mr. Mead had preserved his classified status in the national civil service during the seventeen years he was in the employ of the states of Victoria and California, under the amendment to the transfer rule which recognizes continuous service under a state or a foreign government.²¹ Largely for the purpose of making it possible to retain Mr. Mead (who had drawn a salary of \$11,000 in his previous position, from which he was technically absent only on furlough), the position of Commissioner of Reclamation was recognized by a statute of Congress approved May 26, 1926, providing that the commissioner shall be appointed by the President and shall receive a salary of \$10,000.

The appointment of Elwood Mead, it is to be hoped, reassures to the Reclamation Service the stability that was so seriously disturbed in 1923, when Secretary of the Interior Work forced the resignation of Arthur Powell Davis. Up to that time there had been a pronounced degree of continuity in the reclamation personnel. The foundations had been laid by Major Powell while director of the Geological Survey between 1881 and 1894. The impetus that led to the Reclamation Act of 1902 was notably furthered by Frederick Haynes Newell, a member of the Survey's staff. After the passage of the act, the duties thereunder were for a time performed by the Geological Survey, but on March 9, 1907, the Reclamation Service became a separate unit. Mr. Newell's long service with the Geological Survey, beginning in 1888 at the age of twenty-six, had always focused on hydraulic problems; he had been hydrographer from 1890 to 1902, and thereafter chief engineer of the reclamation work. When he became director of the new Reclamation Service in 1907, his place as chief engineer was taken by Arthur P. Davis, then assis-

²¹ Rule X, Sec. 3, as amended May 2, 1924, provides: "any person may be retransferred to a position in which he was formerly employed or to any position to which transfer could be made therefrom if since his transfer he has served continuously and satisfactorily under any of the following conditions . . . (3) In the service of a state, county, municipality, or foreign government in a position in which he has acquired valuable training and experience." The growing significance of the relations of national and state personnel will be commented on in the concluding instalment of this article.

tant chief engineer. Mr. Davis succeeded to the directorship in 1914. He had practically spent his life in technical government service. He had entered the Geological Survey as assistant topographer in 1882 at the age of twenty-one, completing his college work while employed in the District of Columbia. His investigations in the years before the Reclamation Act, and the extensive construction work which he directed after the beginning of the national reclamation system, put him in the front ranks of his profession and brought him, among other tokens of recognition, election in 1920 as president of the American Society of Civil Engineers.

In the face of this personal record and the whole tradition of the Reclamation Service, Secretary Work in 1923 asked Mr. Davis to tender his resignation. This virtual removal was widely criticized, and sharp inquiries from such bodies as the Federated Engineering Societies were made. Secretary Work offered an explanation centering around this idea: "In the beginning, necessarily, the work was the construction of projects involving engineering skill, but with their completion there grew up another aspect, namely, the problem of the water-users and the collection of the original cost as contemplated by the law. It is thought that these problems, which involve dealing with the farmers individually, could be best handled by a practical business man familiar with the conditions peculiar to irrigation in the west." By this formula he sought to justify the appointment of David W. Davis to the newly-named position of Commissioner of Reclamation. The new head was quite without technical training and almost self-made, having been in coal-mining as a boy, a store clerk, manager of a farmers' coöperative, active in local banking in Washington and Idaho, and on the political side an active Republican and governor of Idaho from 1919 to 1923. His appointment to the Reclamation Service without compliance with civil service requirements was authorized by an executive order a little while after the announcement of his selection. Some of the factors at play in this situation can be deduced from a general knowledge of conditions in the public land states; others can be guessed. The final question of motives must go unanswered.

Fortunately, it seems, the subsequent appointment of Elwood Mead and the quiet dropping of the ex-governor have been a virtual repudiation of the department's action in 1923.

The Bureau of Naturalization is emphatically committed to the recruitment of its chiefs by promotion.²² When the service was developed into a separate bureau in 1913, Richard K. Campbell, who had been with the immigration service since 1894, and who since 1906 had been the head of the division of naturalization in the old Bureau of Immigration and Naturalization, was put in charge of the new unit. He retired on account of age in 1923 (serving briefly after that as a member of the board of review), and was succeeded by Raymond F. Crist, long second in command. Mr. Crist had been assistant chief of the former division of naturalization from 1907 to 1913, deputy commissioner of naturalization from 1913 until 1919, and thereafter director of citizenship until his appointment as Commissioner of Naturalization in 1923. He had originally entered government service in Washington at the age of thirteen as a messenger boy, taking work at what is now George Washington University, a degree in dentistry at Howard University, and later the law degree secured incidentally by so many of the male employees in the central departments who are at all ambitious. Promoted to clerk in 1895, Mr. Crist was private secretary to the Secretary of Commerce and Labor in 1904-1905 and for two years thereafter a commercial agent of the department in the Far East, before beginning his continuous service in the naturalization work.

In addition to the numerous instances in the Department of Agriculture and the single cases in the Departments of the Interior and Labor, the Treasury Department offers four examples of bureau chiefs whose positions are classified, but who have attained them by promotion.

The Bureau of Engraving and Printing is an industrial undertaking which in 1925 numbered 5,098 employees. The present

²² The act which created the Department of Labor in 1913 (37 U. S. Stat. L., 736) stated that there should be a commissioner and deputy commissioner of naturalization under the Secretary of Labor and that appointments to these positions should be "made in the same manner as appointments to competitive civil-service positions."

director, Alvin W. Hall, entered government service during the war after a varied career as clerk of a mining company, book-keeper and cashier, and accountant and auditor in connection with a group of mining and electrical production companies. Between July, 1918, and July, 1920, he was senior cost accountant in the cost accounting section of the Ordnance Bureau, being at one time chief of a section involving 3,000 clerks and accountants. Following that, he was an accountant and investigator of efficiency problems for the Bureau of Efficiency. He worked from this into the position of chief of the planning unit of the Bureau of Engraving and Printing and, at the age of thirty-seven, became its head by promotion in 1925, in connection with a reorganization which, it is hoped, will terminate the disturbances that have involved the bureau since 1922.

The wholesale removals in the Bureau of Engraving and Printing in 1922 constitute a deplorable and still largely inexplicable incident in recent administration. On March 31, 1922, President Harding suddenly issued an executive order removing the director of the bureau, James L. Wilmethe, the assistant director, and some twenty-seven heads and assistant heads of divisions. Louis A. Hill, who had been with the bureau since 1900 and was then assistant chief of the division of engraving, was made director. The sweeping removal of the minor executives was almost laughably disguised as a reorganization; the titles of positions were slightly changed. No official explanation was offered other than President Harding's statement, in replying on April 5 to the protest of the National Federation of Federal Employees, ". . . that no action less sweeping than was taken would give complete assurance of the full protection of the Government's interests." About a year later, on February 14, 1923,²² the march down the hill again was begun when an executive order was issued making sixteen of those who had been removed eligible for reinstatement in the classified service; seven had reached the retirement age in the meantime, and three had already been taken back to the

²² *40th Report of the U. S. Civil Service Commission, 1922-1923*, p. 152-3. By an order on December 24, 1923, two others, including James L. Wilmethe, were given authority to reenter the classified service. *41st Report, 1923-1924*, p. 105.

bureau, although at a reduced grade. The retreat was completed when Louis A. Hill resigned without prejudice on January 1, 1924, and Major Wallace W. Kirby (an officer in the Engineering Corps with lithographing and mapping experience) was temporarily assigned as director, with the understanding, to quote the Secretary of the Treasury, that "after the bureau is put once more in good working order a permanent director will be appointed." Major Kirby soon reinstated sixteen of the division chiefs to the jobs from which they had been removed in 1922. The former director, James L. Wilmeth, declined reappointment. No satisfactory explanation has yet been given of the mixture of motives behind this whole farcical episode. One factor was doubtless the rumor of duplications of Liberty bonds and other public securities. This was subsequently declared to be groundless, in an official statement by the Secretary of the Treasury in 1924. There was at that time a disposition to allow the blame for misleading the President in 1922 to fall on the special agent of the Department of Justice who had been investigating these charges. Suspicions of partisan motivation were naturally excited by the fact that the upheaval in the Bureau of Engraving and Printing nearly coincided with the appearance of Elmer Dover as an assistant secretary of the Treasury, from December, 1921, until July, 1922. It was admitted by some frank supporters of the theory of administrative cohesion that he was there to see that the political side was not overlooked. Certainly Mr. Dover's background was political. He had been Senator Mark Hanna's private secretary from 1897 to 1905 and secretary of the Republican National Committee from 1904 to 1908, and in 1920 he had managed President Harding's campaign on the Pacific Coast. In any event, it is hoped that the repudiation of the removals in 1924, and the appointment of Alvin W. Hall, will restore the Bureau of Engraving and Printing to the status it was beginning to assume when Joseph E. Ralph in 1908 and James L. Wilmeth in 1917 were promoted to the position of director after a long civil service experience.

The Supervising Architect's position is in the classified service, and the present incumbent, James A. Wetmore, reached it by

promotion. In 1885, at the age of twenty-five, he became connected with the Treasury Department in an excepted position, but he was subsequently transferred to a classified status. His connection with the Supervising Architect's office dates from 1903. He was acting head in 1912-1913 and has been acting head since 1915. The unit itself dates from 1853, and in a little over seventy years there were eighteen changes. Disregarding four long terms, there were fourteen occupants of the office in a period of thirty years. Between 1888 and 1898 eight men successively occupied the position.²⁴ Since that time, however, there has been a tendency toward stability. James Knox Taylor served from 1898 to 1912, and James A. Wetmore, except for the period 1913 to 1915, has served since 1912, although always as Acting Supervising Architect. Mr. Wetmore is not an architect; he was a law reporter early in life, and took a law degree while in government service. It may be added that the Secretary of the Treasury, in 1920, recommended that the title of the office be changed to commissioner of public buildings, "on the ground that the work of the Supervising Architect was chiefly administrative; that the work, in other words, did not demand an architect, but a trained executive."²⁵

The present Director of Supply, Dan C. Vaughan, reached this classified position without examination as a result of transfers and promotions. Beginning at the age of twenty, he worked in the Government Printing Office from 1893 to 1905 as compositor, proof-reader, clerk, and copy editor, and during this time was covered into the classified service. He was transferred in 1905 to the Department of Commerce, serving as a clerk and becoming chief of the Division of Publications. From 1918 to 1922 he was chief clerk of the Bureau of Internal Revenue in the Treasury Department. He was made Director of Supply in 1923, with duties that touch all departments of the government.

The Commissioner of the Public Debt, William S. Broughton, entered government service almost immediately after graduation from the University of Chicago at the age of twenty-five. He

²⁴ Darrell H. Smith, *The Office of the Supervising Architect* (1923), p. 45.

²⁵ *Op. cit.*, p. 44.

was covered into the classified service in 1902 and has risen without examination. Until 1919, he was chief of the Division of Loans and Currency; then he was placed in the newly created position of Commissioner of the Public Debt.

2.

The present heads of the Bureaus of Chemistry, Public Roads, and Home Economics, and of the National Park Service were appointed to their positions without competitive examination under the provision known as Civil Service Rule II, Sec. 10. This executive rule authorizes the Civil Service Commission to waive examination when it is convinced "that the duties or compensation of a vacant position are such, or that qualified persons are so rare, that in its judgment such position cannot . . . be filled at that time through open competitive examination."²⁸ The Commission requires a statement of the qualifications of the person whose appointment is desired. This procedure amounts to a non-competitive, qualifying examination. Approval is not perfunctory apparently, even in the case of positions like that of bureau chief. In 1925, for example, when the Department of Agriculture was considering the selection of a new director of the Bureau of Agricultural Economics and had settled on Thomas P. Cooper, it first contemplated his appointment under Rule II, Sec. 10, but "informal conferences with the [Civil Service] Commission developed that it was the opinion of the latter that the vacancy was one which should be filled through examination and that it would not be possible to approve the appointment of Mr. Cooper under Sec. 10 of Rule II." So, too, the Commission

²⁸ The full text of Rule II, Sec. 10 (an amendment of July 25, 1914), is as follows:

"Whenever the Commission shall find that the duties or compensation of a vacant position are such, or that qualified persons are so rare that in its judgment such position cannot, in the interest of good civil-service administration, be filled at that time through open competitive examination, it may authorize such vacancy to be filled without competitive examination, and in any case in which such authority may be given, evidence satisfactory to the Commission of the qualifications of the person to be appointed without competitive examination shall be required. A detailed statement of the reasons for its action in any case arising hereunder shall be made in the records of the Commission and shall be published in its annual report. Any subsequent vacancy in such position shall not be filled without competitive examination except upon express authority of the Commission in accordance with this section."

declined in 1925 to waive competitive examination in the appointment of a new chief of the Packers and Stockyards Administration. These indications of policy gain interest from the fact that the previous head of the Bureau of Agricultural Economics was appointed under the rule.²⁷ A point of friction in connection with the provision has been the feeling of the Civil Service Commission that the departments have not been giving it adequate warning regarding vacancies.²⁸

How Rule II, Sec. 10, operates virtually as a system of non-competitive examinations is illustrated by considering the four bureau chiefs now in office who were brought into the national service under its provisions.

Charles A. Browne's appointment in 1923 as chief of the Bureau of Chemistry was in effect a reinstatement and promotion. Dr. Browne had been previously connected with the bureau. Writing on this point in his recommendation to the Commission, the Director of Regulatory Work in the Department of Agriculture said: "This appointment is requested under Sec. 10 of Rule II, as it is necessary to secure for this position a chemist of outstanding ability and reputation. Dr. Browne is at present in charge of the New York Sugar Trade Laboratory. He was formerly chief of the Sugar Laboratory in

²⁷ The appointment of Dr. H. C. Taylor, without examination, was approved by the Commission on March 13, 1919, on the basis of a statement from the Secretary of Agriculture that a committee consisting of those in charge of rural economics and farm management studies at Cornell, Ohio State, Minnesota, California, and the Massachusetts Agricultural College had been considering the reorganization of the Department's work in agricultural economics, and that "he [Dr. Taylor] is one of the two or three leading men in the country on rural economics and farm management and, so far as the Department knows, is the only man with the requisite qualifications whose services could be secured." It is understood that Thomas P. Cooper declined to consider appointment at that time.

²⁸ The Civil Service Commission, writing to the Secretary of Agriculture on August 22, 1925, and recalling the terms of a letter on September 27, 1923, which had dealt with appointments under Rule II, Sec. 10, said: "We urged that even in cases of such appointments, the Commission should be consulted at the time initial steps are taken to fill the vacancy. At the time we cited two reasons for this: first, it would avoid an embarrassing situation which might arise if the prospective appointee had been offered the place and the Commission should later feel that it could not properly approve the appointment; second, the Commission believes that it can be of real service to the department in securing qualified candidates."

this bureau, resigning in 1907 to accept the position with the New York Sugar Trade Laboratory, which was created for the purpose of serving as an umpire in disputes between wholesale buyers and sellers of sugar arising over differences regarding its chemical analysis."

Prior to 1906, when he entered the United States service, Dr. Browne was research chemist at the Louisiana Sugar Experiment Station for four years in work for which two years of graduate study abroad had specially prepared him. The history of the Bureau of Chemistry favors training and stability in its bureau chiefs. Between 1862 and 1883, six persons held the then nearly personal position of Chemist. From 1883, however, Dr. Harvey W. Wiley ("Old Borax") was continuously in charge until 1912, while the division with a force of five developed to a bureau with a staff of approximately 550. After a ten months' interval under an acting chief, Dr. Carl Lucas Alsberg, chemical biologist in the Bureau of Plant Industry, was taken over as chief and served until 1921, when he went to Leland Stanford University as head of the Food Research Institute. Dr. Walter G. Campbell, a lawyer who had entered the bureau in 1907 as chief inspector in the enforcement of the food and drug act, and who had been assistant chief of the bureau after 1916, carried on the work until Dr. Browne's appointment. Mr. Campbell now has general supervision over all regulatory activities of the Department of Agriculture.

The appointment of Thomas H. MacDonald to the classified position of director of the Bureau of Public Roads in the Department of Agriculture was requested and granted in 1919 on the ground of unique availability. An Office of Public Road Inquiries existed in the Department of Agriculture for many years under the continuous leadership of Martin Dodge. Logan Walter Page assumed charge in 1905 and served until his resignation in 1918. In the meantime the passage of the Federal Aid Road Act in 1916 had made state relations still more crucial. The desiderata which led the Secretary of Agriculture to ask for Mr. MacDonald's appointment to the vacancy under Rule II, Sec. 10, are indicated by the Secretary in his correspondence with

the Civil Service Commission. Having indicated his desire to draw a man from the state service, he said: ". . . From all the information I could gather, there are two men who stand at the head of the list of state highway engineers. One of these is now receiving a salary of \$10,000 per annum and would not be willing to accept a lower figure. The other, Mr. MacDonald, indicated some time ago that he would be willing to accept a salary of \$6,000 per annum. I took the matter up immediately with the House Committee on Agriculture, which promptly agreed to increase the salary of the Director of the Bureau from \$4,500 to \$6,000 In the opinion of the Department, he is the only available state highway engineer who combines all the qualities which are so essential to the successful prosecution of the work. It would serve no good purpose, in the circumstances, to announce an examination because it would result in no real competition."

Authority was given by the Commission on April 3, 1919, and Mr. MacDonald has had charge of the Bureau of Public Roads ever since. His active life has been spent in road construction. He graduated in civil engineering from the Iowa State College in 1904 at the age of twenty-three; as a senior he made Iowa roads his thesis subject. He soon became a highway engineer under the Iowa Highway Commission and chief engineer in 1913, holding that position until he went to Washington in 1919.

When the Bureau of Home Economics was established as a separate unit in 1923, the Department of Agriculture requested the Civil Service Commission to authorize the appointment of Dr. Louise Stanley without examination. The request stated (Aug. 14, 1923): "A thorough survey has been made of the leaders in home economics throughout the country and it was found that no one with the training, experience and reputation of Dr. Stanley would accept the position. Under the circumstances, it is believed that it would be inadvisable to hold an examination for this position." At the time Dr. Stanley was professor and chairman of the department of home economics

in the University of Missouri, with which she had been connected since 1907. The Bureau of Home Economics is the third bureau to have a woman as chief. Moved, evidently, by the pride of sex as well as loyalties of another kind, Mrs. Harriet Taylor Upton, then vice-chairman of the Republican National Executive Committee, wrote to the Secretary of Agriculture on July 30, 1923: "Will you be so good as to tell me just what her position is, something about her, her career, and whether she is a Republican or not? I am interested of course from a political standpoint. If she is a Republican so much the better. If she is not, her achievement in attaining her new position is an incentive to all women and I want to know more about her." To this Secretary Wallace replied simply on August 17: "I am sorry that I am unable to give you any information from the political standpoint."

The first and only director of the National Park Service has occupied the position continuously since the creation of a separate bureau on this subject in 1917. The position is classified, but Stephen Tyng Mather's appointment was requested under the provisions of Rule II, Sec. 10. As a matter of fact, he was already virtually in charge of the parks, having come to Washington in January, 1915, in an exempt position as a special assistant to Secretary of the Interior Lane, with the integration of the hitherto scattered administration of the national parks in view. Mr. Mather's previous experience had been in journalism and in business. Though a descendant of Increase, he had a western background, being born in California in 1867 and graduating from the University of California in 1887. He was a reporter on the New York Sun from that time until 1893, when he became the Chicago manager of the Pacific Coast Borax Company. This led to independent ventures in the borax field after 1903, and he became and is today vice-president of the Thorkildsen-Mather Company and the Sterling Borax Company and president of the Brighton Chemical Company of Pennsylvania, which manufactures borax and boracic acid. As a result came financial means which enabled him, among other things, to contribute a considerable share of the money to buy the

Tioga Road near Lake Tahoe for presentation to the government.

A word should be added regarding the applicability of the ordinary prerogatives and safeguards of the merit system to persons who are appointed under Rule II, Sec. 10. The use of the rule does not put the position in question in the excepted class, and on the other hand the appointee himself acquires no status in the competitive service. Thus the provision for notice in removals²⁹—a shadowy thing at the best so far as administrative posts in the classified service are concerned—does not apply at all to an officer appointed without competitive examination under Rule II, Sec. 10.

This fact gains interest from the removal of the chief of the Bureau of Agricultural Economics in 1925—the most recent of the very few instances of the outright removal of bureau heads in recent years. The incident is important and at the risk of digression is told in this connection, although it is not assumed that the situation would have been greatly different even if the rules of the competitive service had been fully applicable. Not only is the Bureau of Agricultural Economics, formed by the successive consolidations of the Office of Farm Management and Farm Economics and the Bureau of Markets and Crop Estimates, one of the largest and newest bureaus in the Department of Agriculture, but also—more than any other unit in the Department—it is concerned with the delicate, relatively controversial questions of costs, prices, and relations to the whole distributive system, as distinguished from physical problems of production. Friction appeared under a prior administration. In 1918 Dr. W. J. Spillman, under whom the economic

²⁹ Civil Service Rule XII reads: "Section 6 of the act of August 14th, 1912, 37 Stat. L., 555, provides 'That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing'" The Attorney General held that the term "classified civil service" was here used "in the more popular sense of the competitive service" (*38 Opinions of the Attorney General*, 181).

studies of the Department had taken form in the Bureau of Plant Industry after 1904, resigned as chief of the Office of Farm Management, after a difference of opinion with Secretary Houston regarding the use of the estimates of wheat-production costs, and doubtless also regarding larger questions of agricultural policy.³⁰ Dr. H. C. Taylor was appointed without competitive examination under Rule II, Sec. 10.³¹

A reorganization proceeded under his direction, resulting in 1922 in the Bureau of Agricultural Economics, with Dr. Taylor as its head. Trouble came when Secretary Wallace died and, after an interregnum of a year, Secretary Jardine was appointed in 1925. The clue to the friction undoubtedly lay partly in the fact that the Department of Agriculture under Secretary Wallace's lead had given aid and comfort to the original McNary-Haugen bill, which the Administration generally opposed; partly, also, in the inherent likelihood of friction between the Bureau of Agricultural Economics and the Department of Commerce. The direction in which the wind was blowing at the time of the appointment of the new Secretary was indicated in an editorial, following a news-story, that appeared in the Curtis newspapers (the Philadelphia Public Ledger and the New York Evening Post) on January 21, 1925: "The President is looking for a new Secretary of Agriculture. He wants a man untainted by McNary-Haugenism, farm subsidies, price fixing or other forms of Treasury raiding. . . . If the Administration farm program is to have a Chinaman's chance, the next Secretary of Agriculture must swing the ax and let the heads fall where they may. Bureau cliques have dominated for years. For a generation

³⁰ After serving as associate editor of the *Farm Journal*, Dr. Spillman reentered the Department of Agriculture in 1921 as consulting specialist in farm management.

³¹ *Supra*, p. 571, note. Born on a farm in Iowa in 1873, Dr. Taylor completed the course at the Iowa Agricultural College in 1896 and between that time and 1901 pursued graduate studies in economics at the University of Wisconsin under Richard T. Ely, at the London School of Economics, and at the University of Halle and Berlin. He was a member of the Wisconsin faculty, specializing in agricultural economics, from 1901 until he was made chief of the Office of Farm Management in 1919. Since leaving the Department in 1925, Dr. Taylor has been connected, among other things, with the staff of the Institute for Research in Land Economics and Public Utilities.

they have dug in and consolidated." The Director of Scientific Work (Dr. Ball, who subsequently resigned) was aware by now that both he and the head of the Bureau of Agricultural Economics were slated to go, probably no matter who was made Secretary.

Dr. Taylor was glad enough to return to research and teaching, but was not quite ready to move; his pride and a combative spirit, moreover, were stimulated by pressure for his resignation. He stood on his right to an open and explicit statement. It was never given. On June 30, 1925, the Secretary wrote to him: ". . . . I find it advisable to fill the position by July 15 or August 1. In view of this situation, I am wondering if your plans can be made accordingly." Early in August the Secretary wrote: "I have terminated your appointment as chief of the Bureau of Agricultural Economics, effective August 15, 1925." After his removal Dr. Taylor asked the Secretary to "give out a simple statement of the truth regarding the matter. . . . This would seem necessary inasmuch as the press has been misinformed from some source other than yourself." The Secretary's assistant replied simply "that the Secretary does not see any necessity of considering issuing a statement as you suggest."

3.

The selection of bureau chiefs from outside the government service directly by competitive examination has been shown to be a distinctly exceptional procedure. Two instances only are offered among the bureau chiefs now in office. Both are very recent and took place because the Civil Service Commission did not care to waive examination under the rule that has just been discussed. During the year 1925 the heads of the Bureau of Agricultural Economics and of the Packers and Stockyards Administration were chosen by what were technically open competitive examinations.

The new head of the Bureau of Agricultural Economics, Thomas P. Cooper, came to the vacancy (created by the removal of Dr. H. C. Taylor) from the position of dean and director of extension in the agricultural college of the University of Kentucky, which he had occupied since 1918. Born in 1881, Mr. Cooper was graduated from the agricultural school of the University of

Minnesota in 1902, and served there as assistant in farm management studies and demonstration farms from 1908 to 1911. He was the director of a private undertaking—the Better Farming Association of North Dakota—in the two succeeding years and then director of the experiment station and of the agricultural extension work in North Dakota until he took over a similar post in Kentucky.

When Dean Cooper came to the Department of Agriculture in 1925, he was merely on leave of absence from Kentucky, and in 1926 he tendered his resignation as chief of the Bureau of Agricultural Economics, effective June 10. Lloyd S. Tenny, assistant chief of the bureau since 1922, was made acting chief. Mr. Tenny originally joined the bureau as a specialist in marketing extension in 1921, gaining a classified civil service status. Previously he had been connected as an executive with the North American Fruit Exchange, the Eastern Fruit and Produce Exchange, and the Florida Growers' and Shippers' League. His basic training was gained in various grades up to that of pomologist in the Bureau of Plant Industry between 1902 and 1910, following his graduation from the University of Rochester in 1902. Mr. Tenny has not been promoted to the position of chief of the Bureau of Agricultural Economics, but is at present merely in an acting capacity. The bureau is therefore classified in this study on the basis of the mode of choice of the last incumbent.

The position of chief of Packers and Stockyards Administration became vacant through the resignation of Chester Morrill to become counsel of the War Finance Corporation. John T. Caine III, was given a temporary appointment on May 19, 1925, pending the certification of eligibles, and in the subsequent examination received a rating of 88.5, being the first on the list. Mr. Caine had studied animal husbandry at the Utah Agricultural College, from which he was graduated in 1903, and for two years subsequently he took work at the Iowa State College. He returned to the Utah State College in 1906 as assistant in animal husbandry, became head of the department in 1907, and extension director in Utah in 1916. Apart from a year's

leave of absence to do extension work in animal husbandry for the United States Department of Agriculture, he held this position until 1920, when he went into commercial live-stock activities in connection with family companies.

The examinations administered to Mr. Cooper and Mr. Caine were of the well-known unassembled type, in which the candidates need not report at any place but merely submit sworn statements regarding their education and experience and also writings of some kind.³² In both cases 70 per cent was assigned to the element of education and experience. The stipulations here regarding minimum qualifications and the criteria of judgment were slightly different. In the examination for the post of director of the Bureau of Animal Industry it was stated: "Applicants must have graduated from a college or university of recognized standing and must have had at least ten years of responsible administrative experience in positions involving the application of economic principles to agricultural problems. This experience must have been of a nature to demonstrate the applicant's ability to initiate and carry out economic investigations of the broadest kind and successfully to supervise the work of a large body of subordinates. A part of this experience must have been obtained within the past five years. Additional credit will be given for graduate work in agricultural economics." In connection with the position of chief of the Packers and Stockyards Administration, it was provided that "applicants must have graduated from a recognized agricultural college or university and must have had at least ten years of administrative experience in connection with the actual production and marketing, such experience being of a character to evidence executive ability to organize, direct, and manage governmental affairs of the nature and extent described"

³² The following proviso is usual, however: "Competitors who attain an eligible average in the examination may be given an oral test to determine their personal characteristics of address, judgment, adaptability, and general fitness for the performance of the duties of this position. The oral test will be given to competitors in the order of their standing and only to such number as the needs of the service require. A competitor who fails to pass the oral test will not be eligible for appointment."

Naturally, too, the requirements regarding publications varied somewhat. In the former case, each candidate was required to submit "copies of publications of which he is the author, or a thesis, dealing with problems in the field of agricultural economics."³³ In the latter instance the conditions were less rigorous, opening the way for the submission, perhaps, of administrative memoranda and the like: "one or more theses, reports, or publications, preferably not more than three and preferably in printed or typewritten form, on subjects directly relating to the marketing of livestock."

In advance of these examinations, both Mr. Cooper and Mr. Caine were given temporary appointments (with the approval of the Civil Service Commission, of course) and served upwards of two months before the examinations closed. One senses a fairly fundamental clash of opinion between the Commission and the departments in this connection. An immediate cause of irritation in the recent situation was the fact that, through no intentional breach of good faith in the Department of Agriculture, some newspaper announcements of Mr. Cooper's "appointment" appeared even before his temporary appointment had been approved. The details of such a *contretemps* can be disregarded; the issue is deeper. The Commission tends to stand for a free field in competitive examinations, discouraging the action of departments "in looking over the field and selecting some individual for the place."³⁴ A free field is hard to preserve when

* Writing on this point in a private letter in reply to an inquiry regarding the particular examinations under consideration, the secretary of the Civil Service Commission remarked that, in a case like the examination for the position of chief of the Bureau of Agricultural Economics, ". . . we should expect the publications submitted by a successful candidate to cover the technical papers produced in his earlier years, together with later administrative reports containing the results not only of his own research but of the subordinates in his organization."

* The quotation is from an unofficial letter of February 8, 1923 from the secretary of the Civil Service Commission to the writer, in which it is said that the Commission "has notified the appointing officials that in the event of any unreasonable delay between the occurrence of a vacancy and a request for certifications of eligibles, a temporary appointment to fill the vacancy will not be approved, unless it is very clearly shown that such delays have not been used for the purpose of looking over the field and selecting some individual for the place."

there is a temporary appointee who is clearly a candidate and presumably the department's own preference. The line of least resistance, and all the amenities of the situation, conspire to turn the examination from a competitive one into a merely qualifying one, scarcely distinguishable from procedure under Rule II, Sec. 10. Men hesitate to compete, and the number of those available is never large. Men are hardly likely to consider such a position as chief of bureau unless they are approached, and if the department has picked a candidate it is not likely to approach others.³⁵ The grading of the examination, furthermore, is far from automatic. There is, of course, much to be said in favor of thus giving to the department initiative in appointments to positions like that of bureau chief. A non-competitive examination is not without value.³⁶

³⁵ Significantly, Mr. Cooper was the only one who passed the examination that is discussed above. The writer is not informed how many candidates competed.

³⁶ The remaining bureaus will be treated and some conclusions drawn in the second instalment of this article, which will appear in a later issue.

PUBLIC LAW IN THE STATE COURTS IN 1925-1926

ROBERT E. CUSHMAN

Cornell University

AMENDMENT OF STATE CONSTITUTIONS

Validity of Procedure. In the summer of 1925 the appellate division of the supreme court of New York held that the City Home Rule Amendment of 1923 had not been legally adopted and was invalid.¹ In the case of Browne v. City of New York² the court of appeals reversed this decision and held the amendment valid. The chief ground of attack on the amendment was, it is believed, unique. It may be stated as follows: The New York constitution requires an amendment to be proposed by one legislature, approved by the legislature chosen at the next election of senators, and then ratified by the voters. The City Home Rule Amendment was proposed by the legislature of 1922, approved by that of 1923, and ratified at the polls in 1923. It was an amendment to Article XII. But the legislature of 1922 had also approved an amendment to Article XII, relatively trivial in nature,³ which had originated in the legislature of 1920. This amendment was ratified in November, 1922, and went into effect in January, 1923, before the second legislative approval of the City Home Rule Amendment. In other words Article XII, which the City Home Rule Amendment changed, was not the same when the amendment passed the legislature for the first time as when it passed the second time. The appellate division held not only that the amendment must be the same when passed by the two legislatures but that the provision amended must also be the same. In an able opinion written by Judge Cardozo the court of appeals rejected this view. The identity of a law does not vary with the variations of the law it displaces, and no authority or

¹ Browne v. City of New York, 213 App. Div. 206, 211 N. Y. Supp. 306, 1925.

² 149 N.E. 211, October, 1925. This arose out of a taxpayer's action to restrain the City of New York from spending money to acquire and operate municipal busses under the supposed authority of the City Home Rule Amendment and local laws passed in pursuance of it.

³ The provision of the constitution of 1894 relating to the suspensive veto by cities of special legislation affecting them had stipulated that when such a law was vetoed by the municipal authorities it should be returned to "the house in which it originated." The amendment of 1922 modified this to require its return to "the clerk of the house in which it originated."

reason appears for implying the requirement that the amended section of the constitution remain the same while the process of amendment is going on. "Such niceties of verbal distinction do not help determine the meaning of a great instrument of government." Stronger reasons than this ought to appear to warrant the court in adopting a construction which would result in invalidating between 35 and 40 legislative acts applicable to cities and some 200 local laws passed by some 30 municipalities. The court of appeals also declined to invalidate the amendment on the ground that it had been entered on the journals of each house of the legislature by title only rather than in full. The enforcement of such a requirement would have invalidated a large number of amendments for a century back. The court held in this case, however, that the City of New York did not have power under the City Home Rule Amendment to enter upon the business of a common carrier by acquiring, maintaining, and operating municipal busses.

A much stricter rule regarding the mandatory character of amending procedure is followed in the Arkansas case of *McAdams v. Henley*.⁴ The requirement here is that the amendment must be entered on the journal of each house with the yeas and nays before it can be submitted for ratification. In the present case the amendment was properly entered in the senate, was amended and entered in the house, and was adopted again by the senate but without entry on the senate journal of the house changes. The entry in the house was thus different from that in the senate and this was held to be fatal to the amendment even after it has been duly ratified by the voters of the state. In following this ultra-strict rule the Arkansas court follows the leading case of *Koehler v. Hill*,⁵ decided in 1883 by the supreme court of Iowa. A more reasonable position is that taken by the supreme court of Pennsylvania in *Taylor v. King*,⁶ following the case of *Armstrong v. King*,⁷ commented upon in this REVIEW last year,⁸ that a deviation from the procedural requirements respecting the amendment of the constitution may properly be enjoined by the court prior to the ratification of the amendment at the polls, but that such ratification "gives unattackable validity" to such an amendment.

Effect of Proviso Inconsistent with Ballot Title and Purpose of Amendment. An interesting and refreshing instance of judicial legislation occurs

⁴ 273 S.W. 355, June, 1925.

⁵ 60 Ia. 543, 14 N.W. 738, 15 N.W. 609, 1883.

⁶ 130 Atl. 407, June, 1925.

⁷ 126 Atl. 283, July, 1924.

⁸ See this REVIEW, vol. xix, page 568.

in the case in South Carolina of *Hemitsh v. Floyd*.⁹ An amendment was proposed and duly ratified to exempt from the operation of the pre-existing debt limit the city of Spartanburg. This seems to have been the purpose of the legislature in proposing the amendment, and was certainly the purpose of the voters in ratifying it, since the amendment was so described in the ballot title. The amendment, however, was found to contain a proviso that the city of Spartanburg should not incur indebtedness in excess of fifteen per cent of the value of property assessed for taxation, an amount which had already been reached long before the amendment was proposed. In view of the obvious and absolute inconsistency between this proviso and the rest of the amendment, the court held that the proviso did not become part of the constitution.

DEPARTMENTS OF GOVERNMENT—SEPARATION OF POWERS

Delegation of Legislative Power. An interesting system has developed in South Carolina by which special powers and duties have been conferred by statute upon the legislative delegations from certain counties. A statute of 1925 provided that a chain gang should be established in Fairfield County upon the unanimous written consent of the legislative delegation from that county, that the delegation should share in the selection of the superintendent and guards, should have sole power to dismiss the superintendent without notice, and should approve the purchase of all supplies needed for the project. An act of 1924 authorized county legislative delegations to employ certified public accountants to make a complete audit of all books and records of all county offices and institutions. The act of 1925 was held in *Ruff v. Boulware*¹⁰ not to delegate legislative power by making the establishment of the chain gang contingent upon the consent of the county legislative delegation. The act was complete when passed by the legislature, and its going into effect could properly be made contingent upon securing the delegation's approval. The same act and the act of 1924, which was sustained in *Spartanburg County v. Miller*,¹¹ were attacked as delegating administrative duties to legislative officers. The court felt less sure of its ground in reference to this point. While recognizing that "members of the legislature are elected to make laws, not to execute them," it held that the non-legislative duties conferred by the two acts were reasonably

⁹ 126 S.E. 336, January, 1925.

¹⁰ 131 S.E. 29, December, 1925.

¹¹ 132 S.E. 673, November, 1924.

incidental to the full and effective exercise of legislative power. The duties delegated by the act of 1925 seem to have been supported by earlier precedents,¹² and the duty to secure the auditing of county books was held not substantially different from the duty of a legislative committee which might be authorized to investigate a state institution.

Governor—Power of Pardon for Direct Contempt. In *Ex parte Magee*¹³ the supreme court of New Mexico held that the governor of that state under the constitutional grant of authority to "grant reprieves and pardons, after conviction, for all offenses except treason and in cases of impeachment" enjoys the power to pardon for a direct contempt of a state court. While the power to pardon for an indirect constructive contempt (newspaper criticism of court) had been sustained,¹⁴ there was no state authority for the exercise of the power in cases of direct contempt. In the case of *Ex parte Grossman*¹⁵ the United States Supreme Court upheld the power of the President to pardon for all criminal contempt, direct and indirect, and the supreme court of New Mexico in the present case follows Chief Justice Taft's reasoning in the Grossman case.

Governor—Subject to Mandamus for Ministerial Act. The governor of Arizona is required to countersign all warrants for payments from the state treasury. He refused to sign the warrant for the payment of salary to the clerk of the state code commission who, was also the president of the state senate, on the ground that the members of the legislature could not hold any other "civil office of profit or trust." Action for mandamus was brought to compel him to sign. The supreme court of Arizona held in *Winsor v. Hunt*,¹⁶ that the clerical service rendered did not constitute a "civil office of profit or trust" and ordered the mandamus to issue. The state courts are in hopeless conflict on the question whether the governor may be mandamused to perform a ministerial act. The courts of seventeen states hold that he may not, while those of twelve states hold that he may. In other states the courts seem in doubt. It is believed that the weight of reason is with the minority in this conflict and that the Arizona court has adopted the better view.¹⁷

¹² *Elledge v. Wharton*, 89 S.C. 113, 71 S.E. 657, 1911; *State v. Bowden*, 92 S.C. 393, 75 S.E. 866, 1912.

¹³ 242 Pac. 332, December, 1925.

¹⁴ *State v. Magee Publishing Co.*, 29 N.W. 455, 224 Pac. 1028, 1924.

¹⁵ 267 U.S. 87, 1925. See comment in this REVIEW, vol. xx, page 85.

¹⁶ 243 Pac. 407, February, 1926.

¹⁷ The authorities and the principles upon which they rest are carefully considered in H. F. Kumm's article, "Mandamus to the Governor in Minnesota," 9 *Minnesota Law Review*, 21, 1924.

Judicial Power—Declaratory Judgments. In the Petition of Kariher,¹⁸ the supreme court of Pennsylvania upheld the Declaratory Judgment Act of 1923 against the customary arguments that rendering such judgments involves the exercise of non-judicial power since the cases are moot cases, that it denies the right of jury trial, and that it violates due process of law. Pennsylvania is the sixth state to sustain this highly desirable legislation.¹⁹ Michigan is the only jurisdiction in which declaratory judgments have been held unconstitutional.²⁰ Eighteen states provide by statute for the rendering of such judgments. The Wisconsin statute was repealed.

Budget—Validity of Appropriations Unauthorized by Budget Provisions. That the budget provisions of the constitution of Maryland have teeth in them is amply demonstrated by the case of Mayor and City Council v. O'Conor.²¹ A statute passed in 1925 attempted to appropriate money from the state treasury for the payment of deficits in certain offices in Baltimore. As this act was neither a budget bill nor a supplementary appropriation bill, it was held to violate Sec. 52 of Article 3 of the Maryland constitution forbidding the appropriation of money except by those two methods. It was held by the court to make no difference that the statute provided that excess fees from certain offices should be put into one account in the state treasury and that appropriations for the deficits should be limited to the amount in this account.

POLITICAL RIGHTS—ELECTIONS

Residence for Voting Purposes. The New York constitution provides that "for purposes of voting no person shall be deemed to have gained or lost a residence, by reason of his presence or absence . . . while a student of any seminary of learning." In the case of *In re Blankford*²² this was held to apply in the case of young men in a Catholic school, St. Andrews-on-the-Hudson, although upon entrance they had taken vows renouncing former homes and family connections, although they

¹⁸ 131 Atl. 265, November, 1925.

¹⁹ The others are: Kansas, State v. Grove, 109 Kans. 619, 201 Pac. 82, 1921; New York, Board of Education v. Van Zandt, 234 N. Y. 644, 138 N.E. 481, 1923; California, Blakeslee v. Wilson, 190 Cal. 478, 213 Pac. 495, 1923; Connecticut, Brannan v. Babcock, 98 Conn. 549, 120 Atl. 150, 1923; Tennessee, Miller v. Miller, 149 Tenn. 463, 261 S.W. 965, 1924.

²⁰ *Anway v. Grand Rapids Ry. Co.*, 211 Mich. 592, 179 N.W. 350, 1920. See comment on this case in this REVIEW, vol. xv, p. 407.

²¹ 128 Atl. 759, April, 1925.

²² 149 N.E. 415, October, 1925.

had notified the election commissioners of their former domicile of their change of residence, and although they had filed affidavits of intention to reside "indefinitely at St. Andrews." The court found no evidence of intention to reside in the community of Hyde Park in which the school was located, "irrespective of residence in the seminary of learning." In *Kemp v. Heebner*²³ the Colorado supreme court held that a civilian employee in a United States hospital was not entitled to vote in a general election, even though the United States had not acquired full jurisdiction over the land by cession from the state.

Preferential Voting—Requirement That Voter Indicate Minimum Number of Choices. An Oklahoma statute of 1925 established a system of preferential voting in primaries and provided that where there were one or two candidates for nomination for an office the voter should vote for at least one; that where there were three or four candidates the voter should vote for two, indicating his first and second choices; that where there were more than four candidates the voter should vote for three indicating first, second, and third choices. If more than one candidate was to be nominated the voter should vote for as many as were to be nominated. If the voter did not comply with these rules his ballot was void and could not be counted. In *Dove v. Oglesby*²⁴ this is held to be a violation of the provision of the state constitution which stipulates that "no power shall ever interfere to prevent the free exercise of the right of suffrage." The practical result of the statute, said the court, is to say to the voter "unless you vote for one or two who are not your choice, then the vote of the one who is your choice shall not be counted." A writ was accordingly issued enjoining the county election board from holding an election under these provisions of the law.

Primaries—Legal Effect of Voter's Pledge to Support Nominee. Under the Texas primary law the voter indicates on the primary ballot that he is a member of the party chosen and declares "I . . . pledge myself to support the nominee of this primary." In a primary for the nomination of county clerk, Cunningham was duly nominated over his opponent McDermett. In spite of the primary pledge, McDermett and 25 others who voted in the primary wrote in the name of McDermott on the ballot in the general election, the result being the election of McDermott by a vote of 97 to 78. Without the votes of the 26 who had voted in the primary McDermott would have been defeated. Cunningham contested the election, alleging violation of the primary law upon the part of the

²³ 234 Pac. 1068, April, 1925.

²⁴ 244 Pac. 798, March, 1926.

26 voters. In *Cunningham v. McDermett*²⁵ the Texas court of civil appeals sustained the election of McDermett, holding that it was not the intention of the legislature in setting up the primary pledge to limit the free right of suffrage in the general election.

Corrupt Practices—Candidate's Statement Proposing Salary Reduction. In *Owsley v. Hill*²⁶ it is held that the Kentucky statute against bribery in elections is not violated by a statement made during a campaign by a candidate for the office of county attorney proposing that "the fiscal court take from the county attorney's salary \$400 per year and place the same to the credit of the road fund." Three justices dissented. The majority took the view that this was not an offer to serve for less than the salary fixed by law, which would have been unlawful, but was a proposal that the legal salary be reduced by those having authority to reduce it. Also the offer was made to the whole body of the voters of the county and not to individuals, and therefore does not constitute a bribe.

Direct Legislation—Referendum Deleting Part of Statute and Leaving Remainder Self-Contradictory. Over a period of years the state of North Dakota had fallen into a somewhat complicated situation with respect to the levying of taxes on bank stock. The solution was sought in the enactment of a statute validating certain levies previously made, the regularity of which had been questioned, and recognizing at the same time certain compromises and settlements which had been worked out by the banks and the taxing authorities. The section validating these compromises and settlements was subjected to a state-wide referendum and was defeated. The question arose whether the rest of the statute remained intact and enforceable. The supreme court of North Dakota in *Baird v. Burke County*²⁷ held that it did not. The deleting of the section mentioned left an act substantially different from that intended by the lawmakers and one which would result in injustice. The entire statute was therefore held to have been defeated by the referendum. The court observes: "If through the referendum the very soul and purpose of a statute may be stricken from it, the most pernicious form of log-rolling is invited. It would be a simple thing to load a legislative bill with riders and clauses in order to insure its passage, only to remove them later by referendum."

Referendum—Ninety-day Period Runs from Passage Rather Than from Time of Taking Effect. A workmen's compensation act was passed in

²⁵ 277 S.W. 218, November, 1925.

²⁶ 275 S.W. 797, October, 1925.

²⁷ 205 N.W. 17, August, 1925.

Arizona in 1925 to take effect contingent upon the adoption of a constitutional amendment authorizing it. The amendment was duly adopted. It is held in Alabama's Freight Co. v. Hunt²⁸ that it is not an unconstitutional delegation of legislative power to pass a statute to go into effect contingent upon the adoption of a constitutional amendment and that the ninety-day period during which the act was subject to referendum ran from the date of passage of the statute rather than from the date of the adoption of the amendment which gave it validity. This period had elapsed long before the amendment was ratified and the act was accordingly no longer subject to referendum.

CIVIL RIGHTS

I. RIGHTS OF PERSONS ACCUSED OF CRIME

Unreasonable Searches and Seizures. The supreme court of Indiana holds in Robinson v. State²⁹ that the search of the person and automobile of the defendant by officers without a warrant and on mere suspicion that a crime has been committed is an unreasonable search. The fact that the defendant was "a known bootlegger" does not justify search without a warrant. The rule here is more strict than that followed by the Supreme Court of the United States in the Carroll case³⁰ in which the search of an automobile without a warrant was sustained upon the basis of "probable cause" amounting in substance to the knowledge of the defendant's reputation as a bootlegger.

In these days of prohibition enforcement the question as to the admissibility of evidence obtained by officers by unlawful search and seizure is one of great practical importance. The Supreme Court of the United States has held in several cases that evidence thus unlawfully obtained must be excluded if objection to its admission is made in time.³¹ The state courts are in conflict on the point, about a dozen holding that such evidence may be admitted and about the same number holding that it may not. Several others have shifted from side to side in different cases. The Colorado case of Mascantonio v. People³² and the North

²⁸ 242 Pac. 658, January, 1926.

²⁹ 149 N.E. 891, December, 1925.

³⁰ Carroll v. United States, 267 U.S. 132, 1925. See comment on this case in this REVIEW, vol. xx, page 87.

³¹ Weeks v. United States, 232 U. S. 383, 1914; Gouled v. United States, 255 U.S. 298, 1921.

³² 236 Pac. 1019, June, 1925; 205 N.W. 67, August, 1925.

Dakota case of *State v. Fahr*³³ both discard the federal rule and hold that the evidence obtained by unlawful search and seizure may be admitted. The Colorado court describes its position by saying, "Suffice it to say we have examined all these authorities with diligence and considered them with care, and have endeavored to follow the rule which, in our judgment, leaves the law a sword to the state and a shield to the citizen without converting it into a bomb-proof dugout for their enemies."

Jury Trial—Verdict by Less Than Twelve Jurors. In *Branham v. Commonwealth*³⁴ the supreme court of Kentucky holds that the defendant charged with felony and the state may not constitutionally agree to a trial before a jury of seven. Such an agreement had been reached and after his conviction the defendant had repudiated it and appealed. The court's decision was grounded on the presence of a statute allowing such an agreement with respect to the number of jurors "except in cases of felony." In *State v. Tiedeman*,³⁵ however, in the absence of any such restrictive statute, the supreme court of South Dakota held that in a prosecution for rape an agreement between the defendant and the state to accept a verdict by eleven jurors, one having been excused by the judge for cause, operated as a waiver of the defendant's right to a trial by a jury of twelve and was not an infringement of his constitutional rights. This comes close to saying that a jury trial may be waived by agreement in cases of felony. The court supported its conclusion by the case of *State v. Ross*,³⁶ which had held that the defendant might waive the right to a trial by a jury of twelve in the case of a misdemeanor.

Double Jeopardy. Following the principle in the leading case of *United States v. Perez*,³⁷ the supreme court of Michigan holds in *People v. Schepps*³⁸ that the defendant is not subjected to double jeopardy by being tried a second time after the first jury is discharged and a mistrial declared by the judge because one of the jurors objects in open court to being locked up and declares that he will be prejudiced by such procedure. The jury in the Perez case was discharged after disagreement and the prisoner was tried again.

³³ 273 S.W. 489, June, 1925.

³⁴ 207 N.W. 153, February, 1926.

³⁵ 197 N.W. 234, 1924.

³⁶ 9 Wheat. 579, 1824.

³⁷ 203 N.W. 882, May, 1925.

In two cases, *People v. McClosky*³⁸ and *People v. James*,³⁹ the supreme court of California holds that a statute making it a crime for a felon to own or carry concealed weapons or weapons capable of concealment is not void as subjecting the felon to punishment twice for the same offense, nor as an *ex post facto* law. The disability attaching to the felon because of his previous conviction of crime is not an added punishment but merely a reasonable exercise of the state's police power to protect the state from acts of violence from those who might most reasonably be expected to commit them.

Due Process of Law—Definiteness in Penal Statute. An Oregon statute making it a felony for a man to fail to support his wife and children is held in *State v. Bailey*⁴⁰ not to deny the defendant due process of law because of want of definiteness. While the statute did not and could not define the exact amount of food, clothing, medical care, etc., which should be deemed necessary to constitute support of one's family, there could be no essential uncertainty resulting in injustice. Nor does the statute delegate legislative power to the judge and jury by permitting them to find upon the fact of non-support. The case is in accord with the authorities in other jurisdictions.

Extradition. It is held in *Ex parte Colcord*⁴¹ (South Dakota) that a convict who violates his parole and is found in another state without having received permission from the proper authorities to go there is a fugitive from justice and may be extradited.

II. JURY TRIAL IN CIVIL CASES

Requirement of Unanimity. A North Dakota statute of 1923 attempted to authorize the returning of verdicts in civil cases by ten of the twelve jurors. It is held in *Power v. Williams*⁴² that the legislature is without power to modify the number of jurors rendering a verdict. Jury trial in the North Dakota constitution has the same meaning that it has at common law and the meaning which it had in the federal constitution when it was applicable to the Dakota Territory. One of the essential incidents of jury trial as so defined is the unanimous concurrence of twelve jurors in the verdict. Any deviation from this must be made by constitutional amendment and not by legislative enactment.

³⁸ 244 Pac. 930, January, 1926.

³⁹ 235 Pac. 81, February, 1925.

⁴⁰ 236 Pac. 1053, June, 1925.

⁴¹ 207 N.W. 213, February, 1926.

⁴² 205 N.W. 9, August, 1925.

III. IMPRISONMENT FOR DEBT

In 1911 the California legislature passed a law establishing regulations regarding the time of wage payments, and requiring the prompt payment of discharged or quitting employees under penalty of punishment for misdemeanor. This was held in *In re Crane*⁴³ to be unconstitutional as inflicting imprisonment for debt on the employer. This was accordingly followed in 1915 by an act which imposed a money forfeiture upon the employer for failure to pay wages within the specified time. In 1919 the legislature enacted a statute imposing the penalty of imprisonment upon employers who, having the means to pay wages due under the law, wilfully refuse to do so with the wrongful intent to "annoy, harass, or oppress, or hinder, or delay, or defraud, the person to whom the indebtedness is due." In *Ex parte Oswald*⁴⁴ this statute is held to be constitutional. It is a legitimate exercise of the state's police power, and the penalty is inflicted upon the guilty employer not because of his indebtedness but because of his malicious interference with the rights of others which amounts, substantially to fraud. It does not, therefore, inflict imprisonment for debt.

An analogous principle is applied by the supreme court of Washington in the case of *State v. Williams*.⁴⁵ Here the statute punishes by imprisonment any contractor who with intent to deprive or defraud the owner receives the price for labor or material for which a lien might be filed upon the property of another, without paying for it. This is held valid as against the allegations that it inflicts imprisonment for debt, denies equal protection of the law, and interferes arbitrarily with liberty of contract. Here again it is the fraudulent act which is penalized rather than the mere indebtedness. There is some conflict in the state courts upon the question of the validity of this type of legislation, but the weight of authority is with the Washington court.⁴⁶

IMPAIRMENT OF THE OBLIGATION OF CONTRACTS

Forfeiture of Lease for Violation of Volstead Act. The Volstead Act provides in Sec. 23 of Title 2 that "Any violation of this title upon any

⁴³ 26 Cal. App. 22, 145 Pac. 733, 1914.

⁴⁴ 244 Pac. 940, February, 1926.

⁴⁵ 233 Pac. 285, February, 1925.

⁴⁶ In accord with the present case see *Pauly v. Keebler*, 175 Wis. 428, 185 N.W. 554, 1921; *State v. Harris*, 134 Minn. 35, 158 N.W. 829, 1916. For contrary doctrine see *American Surety Co. v. Bank of Italy*, 63 Cal. App. 149, 218 Pac. 466, 1923; *People v. Holder*, 53 Cal. App. 45, 199 Pac. 832, 1921.

leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease." Although this provision has been enforced in several cases in other jurisdictions, the question whether such forfeiture of a lease impairs the obligation of the lessee's contract or denies him his property without due process of law seems to have arisen for the first time in Pennsylvania in the case of *Burke v. Bryant*.⁴⁷ The forfeiture was sustained, the court holding upon well established principles that the title in question was a legitimate exercise of the police power and not subject to the constitutional objections urged.

Increase in Period of Infancy Not Retroactive. In June, 1921, a Missouri statute became effective which provides that twenty-one years shall be the full age for all persons, thus increasing the period of legal infancy of females from eighteen to twenty-one. The operation of this statute is involved in the case of *Nahoski v. St. Louis Electric Term. Ry. Co.*⁴⁸ In November, 1921, the plaintiff suffered injuries in an accident. She sued the defendant for damages, but verdict for the defendant was rendered in June, 1922. After the trial it developed that she was born in September, 1901, and consequently became of age in September, 1919, and was, therefore, of full age according to the old law at the time her action was brought. She now contends, however, that the act of 1921, by increasing the period of legal infancy, restores her to the status of an infant and should therefore entitle her to a new trial brought by her "next friend." The court holds that it was not the intention of the legislature in enacting the law of 1921 to restore to infancy the persons who had attained their majority under the old law but would not have attained it under the new, and that to hold the act retrospective in its operation would make it unconstitutional as a law impairing the obligation of contracts made by persons whose legal status would thus be changed, as well as a violation of Art. 2, Sec. 15, of the constitution of Missouri forbidding the enactment of law "retrospective in operation." Two earlier cases in Kansas follow the same rule.⁴⁹

THE FOURTEENTH AMENDMENT

I. EQUAL PROTECTION OF THE LAW

Discrimination Against Aliens. An ordinance of the city of Portland required persons selling soft drinks to be licensed under specified

⁴⁷ 128 Atl. 821, March, 1925.

⁴⁸ 274 S.W. 1025, July, 1925.

⁴⁹ *Smith v. State*, 104 Kans. 629, 180 Pac. 231, 1919; *State v. Lyons*, 104 Kans. 702, 180 Pac. 802, 1919.

regulations and provided that licenses should not be granted to aliens. The validity of this discriminatory provision came before the supreme court of Oregon in the case of *George v. City of Portland*⁵⁰ and was denied. It was held to be in violation of the clause of the Oregon constitution which provides that "White foreigners who are or may hereafter become residents of this state shall enjoy the same rights with respect to the possession, enjoyment, and descent of property as native-born citizens," and also in violation of the equal protection of the law clause of the Fourteenth Amendment. The court emphasized that the right to sell soft drinks, which unlike intoxicating drinks have not been put under any legal ban, is a property right and not a mere privilege which may be granted or withheld in the discretion of the state or city. In this respect it differs from the business of selling intoxicants, operating a billiard hall, pawn-broking, and peddling, in all of which cases the exclusion of aliens except where protected by treaty has been upheld. A short dissenting opinion took the position that the restrictive provisions of the ordinance should be regarded as means of enforcing the law against the sale of intoxicants and as such may be sustained as a reasonable exercise of the police power.

An interesting case under the Washington Alien Land Law, although not presenting a direct constitutional question, may be briefly noted here. In *State v. Kosai*,⁵¹ alien Japanese parents owning land before the Alien Land Law went into effect, in anticipation of the operation of the law, executed an absolute gift in the nature of a deed of trust to their nine-year old son, born in this country and therefore an American citizen. The trustees immediately and continuously employed the father as foreman on the ranch in question at a good salary. The state supreme court held, somewhat reluctantly it would seem, that this transfer is not subject to attack under any existing statute. Up to the time the state begins proceedings to escheat the property of an alien he has the undoubted right to transfer good title to any person entitled to it. Obviously the minor son as a citizen of the United States has the right to hold title to land. If subsequently it should appear that the transfer was not absolute or in good faith the courts could deal with that situation upon its merits.

Discrimination against Negroes. A case of very great interest is that of *Porter v. Barrett*,⁵² decided by the supreme court of Michigan, in-

⁵⁰ 235 Pac. 681, April, 1925.

⁵¹ 234 Pac. 5, March, 1925.

⁵² 206 N.W. 532, December, 1925.

volving the validity of a restrictive covenant running with the land forbidding the sale of property to "a colored person" or to any person "other than those of the Caucasian race." The covenant was attacked in the first place as a violation of the equal protection of the law clause of the Fourteenth Amendment by reason of the race discrimination involved. The court held, soundly enough, that the Fourteenth Amendment forbids only the arbitrary discrimination which may be practised by the state or its subdivisions and does not impose any restrictions upon discrimination practised by private individuals. This view has since been sustained by the Supreme Court of the United States in the case of *Corrigan and Curtis v. Buckley* decided in May, 1926.⁵³ The Michigan court, having disposed of the constitutional point raised, turned its attention to the question whether the covenant was void as imposing an undue restraint upon the right of alienation of property. It decided that it was. The restriction here was not a mere restriction upon the occupancy of premises in residential districts by colored people, a restriction which had earlier been held good by the Michigan court in *Parmalee v. Morris*,⁵⁴ but was a restraint upon the right to sell. Furthermore, it was not a restraint upon the right to sell which was limited to a term of years, as had been the case with similar restrictive covenants sustained in other jurisdictions,⁵⁵ but clearly specified that the property "shall never be sold or rented to a colored person." There is a certain irony in the fact that what protection the negro enjoys against the sort of race discrimination involved in these covenants comes to him from a rule of real property law dating back to the reign of Edward I⁵⁶ rather than from the Fourteenth Amendment which was so obviously intended by its framers to constitute the palladium of his liberties. In this connection it may be interesting to note the much earlier Virginia case of *People's Pleasure Park Co. v. Rohlede*,⁵⁷ in

⁵³ In this case nothing but the constitutional question arising under the Fourteenth Amendment was before the court. The case came up from the court of appeals of the District of Columbia.

⁵⁴ 218 Mich. 625, 188 N.W. 330, 1922.

⁵⁵ *Queensborough Land Co. v. Cazeaux*, 136 La. 724, 67 So. 641, 1915; *Koehler v. Rowland*, 275 Mo. 573, 205 S.W. 217, 1918. In these cases the restriction ran for only twenty-five years. In *Los Angeles Investment Co. v. Gary*, 181 Cal. 680, 186 Pac. 596, 1919, a restriction on alienation to one not of the Caucasian race was held void, but the restriction on occupancy was upheld.

⁵⁶ The rule finds its origin in the statute *Quia Emptores*, 18 Edw. I, 235.

⁵⁷ 109 Va. 439, 61 S.E. 794, 1908.

which a covenant forbidding the sale or lease of land to negroes was held not to prevent the sale of the property to a corporation composed exclusively of negroes. In Virginia a corporation does not have "color," but it is an entity entirely distinct from the natural persons organizing and composing it. An opposite rule regarding corporations is followed in the alien land laws of California and Oregon.

Discrimination Against Negroes—Segregation Ordinances in Cities. One might have supposed that the question of the validity of municipal ordinances establishing residential districts in which whites and blacks should be segregated had been finally disposed of by the decision of the Supreme Court of the United States in *Buchanan v. Warley*⁵⁹ that such regulations were void. The Buchanan case, which involved the ordinance of Louisville, Kentucky, went essentially upon the ground that the ordinance denied to owners of property in the segregated districts the right to sell that property to those of the race excluded from the particular district and was therefore so arbitrary an interference with liberty of contract and property rights as to amount to a deprivation of property without due process of law. This ruling is not deemed conclusive by the supreme court of Louisiana, however, in its application to a segregation ordinance passed by the city of New Orleans under authority of a Louisiana statute of 1824. This ordinance is sustained in the case of *Tyler v. Harmon*.⁶⁰ The ordinance in question forbids negroes to establish their homes in white communities or districts and forbids white persons to establish their homes in negro communities or districts without the consent of a majority of those of the other race in such community or district. Communities are to be regarded as white or colored in accordance with the numerical predominance of the one or the other race. The Louisiana court declares, "Although we cannot reconcile our judgment in the present case with all that is said in *Buchanan v. Warley*, the two cases may be distinguished." It then emphasizes that while the Louisville ordinance forbade the sale of the property to members of the excluded race the New Orleans ordinance merely restricts the occupancy of the property. This restriction, it is urged, is similar to and not more objectionable than the numerous zoning regulations whereby municipalities the country over have succeeded in excluding from residence areas various kinds of enterprises and businesses, intrinsically legitimate, which would impair the comfort and

⁵⁹ 245 U.S. 60, 1917. [No note 58]

⁶⁰ 104 So. 200, March, 1925.

well being of the residents. A concurring opinion states bluntly that, "If the doctrine in *Buchanan v. Warley* conflict with these views, and that doctrine be adhered to, then that case marks a long step backwards in the march of civilization." It will be interesting to see, if opportunity arises, whether the Supreme Court of the United States will be impressed by the distinction pointed out between the Louisville and New Orleans ordinances.

Discrimination against Negroes—Negro Appropriation of Shriner Ritual Enjoined. A case of interest to members of fraternal orders is that of *Burrell v. Michaux*⁶¹ decided by the Texas court of civil appeals. The action began in an attempt upon the part of the white "Shriners" (the "Arabia Temple") of Texas to enjoin the negro "Shriners" (the "Doric Temple") from using the names, insignia, emblems, paraphernalia, badges, jewels, constitution, and by-laws of the white organization. The national orders soon came to the support of their local chapters. It was not disputed that the white organization had been in existence for some fifty years and during that time had made use of the distinctive names, ritual, and paraphernalia in dispute. The negro order was established in 1893 and in 1900 was incorporated under an act of Congress. It claimed to have derived its distinctive features, insignia, ceremonials, etc., from Arabia and Egypt. The court found no foundation in fact for this allegation, held that the negro order had borrowed bodily from the white order, had not included in any of their names or labels or badges an indication that the membership was composed of negroes, and granted the relief prayed for. There is plenty of authority to support the protection of the rights which had been invaded. The relief would have been granted quite as readily against a competing white order as against one composed of negroes. The court held that no question of unconstitutional discrimination under the equal protection of the law clause of the Fourteenth Amendment arises, nor have the negroes been denied any privilege or immunity of United States citizenship nor deprived of liberty or property without due process of law.

Miscellaneous Cases Involving Classification. Of the many cases in which the protection of the equal protection of the law clause was invoked only a few merit special comment. The court of appeals of Maryland in *Carozza v. Federal Finance and Credit Co.*⁶² holds that a statute of 1916 which forbade corporations to set up the defense of usury

⁶¹ 273 S.W. 874, April, 1925.

⁶² 181 Atl. 332, December, 1925.

does not deny them the equal protection of the law. Usury laws spring from the idea that inequality usually exists between lender and borrower. It is legitimate to recognize that corporations as borrowers are in a class by themselves as compared with natural persons and may be subjected to separate regulations.

The Alabama statute forbidding a wife to make any contract of suretyship for her husband is held in *Huntsville Bank and Trust Co. v. Thompson*⁶³ not to deny her the equal protection of the law. It does not create any new disability but merely leaves in existence one originally existing at common law. It was not the intention of the framers of the Fourteenth Amendment to create new rights of persons or property not known to the common law.

In *Franchise Motor Freight Association v. Seavey*⁶⁴ a California statute of 1917 which required all common carriers for hire using the public highways for transportation by automobile, bus, or jitney to secure a certificate of public convenience from the railroad commission upon payment of a fee of \$50, but which exempted from these requirements common carriers engaged in the transportation of products or implements of husbandry and other farm necessities, was held to involve arbitrary discrimination amounting to denial of the equal protection of the law. The plea that the purpose of the act was the encouragement of agriculture was unavailing. The court relied heavily upon the leading case of *Connolly v. Union Sewer Pipe Co.*⁶⁵ in which in 1902 the Supreme Court of the United States held the Illinois Anti-trust Act void because it contained the stipulation that "the provisions of this act shall not apply to agricultural products or live stock while in the hands of the producer or raiser."

The South Carolina supreme court in the case of *Sirrine v. State*⁶⁶ held void as a special act and as a denial of the equal protection of the law a statute of 1924 by which Mrs. Sirrine was allowed to bring suit against the state to recover damages to her automobile caused by the negligence of a uniformed member of the national guard who was driving a military truck. A general law might have been enacted which would have accomplished the desired purpose, but no reason appeared why Mrs. Sirrine should be given rights denied to other property owners similarly injured.

⁶³ 103 So. 477, March, 1925.

⁶⁴ 235 Pac. 1000, April, 1925.

⁶⁵ 184 U.S. 540, 1902.

⁶⁶ 128 S.E. 172, May, 1925.

An Atlanta ordinance of 1925 revoking all jitney licenses and authorizing the issuance of licenses only to busses carrying seventeen or more passengers and operating upon streets where there are no street cars was held in *Schlesinger v. City of Atlanta*⁶⁷ not to be unduly discriminatory. There is no right in any person to use the public streets. Such use is a mere privilege which may be withheld at pleasure and can be given to one class and denied to another. The court goes somewhat further than necessary, and perhaps further than it seriously intended, when it declares: "The due process and equal protection clauses of our federal and state constitutions are applicable to rights alone, and have no reference to mere privileges which may be bestowed or withheld by the state or municipality." Certainly the equal protection of the law clause would prevent wholly arbitrary and capricious discrimination in the granting of mere privileges.

II. DUE PROCESS OF LAW—THE POLICE POWER

The Sterilization of Mental Defectives. In the Michigan case of *Smith v. Command*⁶⁸ and in the Virginia case of *Buck v. Bell*,⁶⁹ statutes authorizing the sterilization of mental defectives were held constitutional. The Virginia case is the stronger because the statute of that state enacted in 1924 subjected to sterilization only the inmates of state institutions. Cases decided earlier in New Jersey,⁷⁰ New York,⁷¹ and Michigan⁷² had held that such restricted application of the law created an unreasonable classification amounting to a denial of the equal protection of the law. To cure this defect the Michigan statute enacted in 1923 was made applicable to all mental defectives in the state, under proper procedure, some twenty thousand in all and eight times as many as could be confined at present in institutions. The statute in this form was upheld with the exception of the single provisions applying the law only to mental defectives unable to support any children they might have, which was held to involve unreasonable classification. In a convincing opinion the court declared the statute to be a reasonable and proper exercise of the police power of the state, not to involve arbitrary classifi-

⁶⁷ 129 S.E. 861, September, 1925.

⁶⁸ 204, N.W. 140, June, 1925.

⁶⁹ 130 S.E. 516, November, 1925.

⁷⁰ *Smith v. Board of Examiners of Feeble-minded, etc.* 85 N.J.L. 46, 88 Atl. 963, 1913.

⁷¹ *Osborn v. Thompson*, 103 Misc. Rep. 23, 169 N.Y. Supp. 638, affirmed in 185 App. Div. 902, 171 N.Y. Supp. 1094, 1918.

⁷² *Haynes v. Judge*, 201 Mich. 138, 166 N.W. 938, 1918.

cation (barring the clause mentioned), and not depriving persons of liberty without due process of law, in view of the procedural requirements set up. The argument that sterilization amounts to a cruel and unusual punishment is disposed of by the statement that it is not a punishment at all, but like compulsory vaccination is entirely non-punitive. The Washington statute providing sterilization as a punishment for rape was sustained in *State v. Feilen*⁷³ under a constitutional clause forbidding cruel but not unusual punishments. Two federal district courts have invalidated laws in Iowa⁷⁴ and Nevada⁷⁵ applicable to rapists and habitual criminals as inflicting cruel and unusual punishments and as bills of attainder. In Indiana⁷⁶ a sterilization law applicable to mental defectives was held wanting in due process because no provision was made for a public hearing in each case. In addition to Washington, Michigan, and Virginia, sterilization laws which have not been attacked constitutionally seem to be in force in Connecticut, Wisconsin, North Dakota, South Dakota, and Kansas. The two present cases seem to be the first ones in which the whole constitutional question of eugenical sterilization has been broadly considered.⁷⁷

Enticing Servant Away from Employment Made Unlawful. Section 125 of the Georgia penal code of 1910 making it a misdemeanor for any person "by offering higher wages or in any other way, to entice, persuade, or decoy, . . . any servant, cropper, or farm laborer, whether under a written or parol contract, after he shall have actually entered the service of his employer, to leave his employer during the term of service, knowing that said servant, cropper, or farm laborer was so employed" is held in *Rhoden v. State*⁷⁸ not to amount to a denial of due process of law. This places no legal restriction upon the freedom of action of the employee, but merely upon those who seek to persuade him to break his contract of employment.

Requirement of Curtains on Locomotive Cabs. A Wisconsin statute of 1923 and an order of the railroad commission issued in pursuance of it requiring adequate curtains on all locomotive cabs is held in *Railway*

⁷³ 70 Wash. 65, 126 Pac. 75, 1912.

⁷⁴ *Davis v. Berry*, 216 Fed. 413, 1914.

⁷⁵ *Mickle v. Heinrichs*, 262 Fed. 687, 1918.

⁷⁶ *Williams v. Smith*, 190 Ind. 526, 131 N.E. 2, 1921. This point was also urged by the court in *Davis v. Berry*, *supra*.

⁷⁷ An excellent survey of this whole problem is found in the article by Professor Burke Shartel, "Sterilization of Mental Defectives," 24 *Michigan Law Review*, 1, 1925.

⁷⁸ 129 S.E. 640, September, 1925.

Company v. Railroad Commission⁷⁹ to be a reasonable exercise of the police power of the state and not an unconstitutional interference with interstate commerce in its application to locomotives engaged in interstate commerce in the state.

Minimum Wage Statute for Women and Minors. Upon the authority of the decision of the United States Supreme Court in *Adkins v. Children's Hospital*,⁸⁰ the supreme court of Kansas in *Topeka Laundry Co. v. Court of Industrial Relations*⁸¹ held invalid the Kansas minimum wage law applicable to women and children. This was before the decision of the United States Supreme Court⁸² holding without opinion that the Arizona statute was void under the rule of the *Adkins* case. A vigorous dissenting opinion expressed the view that the Kansas court ought to use its own judgment "rather than be controlled by a decision of another jurisdiction, which at best is persuasive rather than authoritative."

Test of Good Moral Character for Real Estate Brokers. In the Kentucky case of *Rawles v. Jenkins*⁸³ it is held that the rights guaranteed by the Kentucky constitution of "enjoying and defending their lives and liberties" and of "acquiring and protecting property" are violated by a statute passed in 1924 which prescribes moral qualifications for real estate brokers and salesmen and confides to a commission the power to withhold or revoke a license if, in its opinion, the applicant or licensee does not possess such qualifications. A similar statute had been sustained in California⁸⁴ upon the general principle of the "blue sky" legislation, but this was not convincing to the Kentucky court.

New York Ku Klux Klan Case—Regulation of Oath-bound Societies. The New York statute of 1923 requiring all societies having a membership oath, incorporated or unincorporated, and having twenty members or more, excepting labor organizations and benevolent orders, to file with the secretary of state a sworn copy of their by-laws, regulations, membership oath, roster of membership, and list of officers is held in *People v. Zimmerman*⁸⁵ to be constitutional against the allegations of denial of due process of law and equal protection of the law. The court

⁷⁹ 205 N.W. 932, November, 1925.

⁸⁰ 261 U.S. 525, 1923. For comment on this case see this REVIEW, vol. xviii, page 54.

⁸¹ 237 Pac. 1041, July, 1925.

⁸² *Murphy v. Sardall*, Oct. 19, 1925. 269 U. S. ——. Justice Brandeis dissented.

⁸³ 279 S.W. 350, November, 1925.

⁸⁴ *Riley v. Chambers*, 181 Cal. 589, 185 Pac. 855, 1919.

⁸⁵ 150 N.E. 497, January, 1926.

regarded the statute as a reasonable exercise of the state's police power and deemed the classification involved reasonable.

Regulation of Auctions of Jewelry. That the business of selling jewelry at auction may be subjected to strict regulations for the purpose of protecting the public against fraud is held in *Ex parte West*,⁸⁶ a California case, and *Holsman v. Thomas*,⁸⁷ decided in Ohio. The Cleveland ordinance in question limits the time during which goods may be auctioned to sixty days per year, requires previous residence for one year upon the part of the auctioneer, and requires that he must have had a regular stock of jewelry for six months. The Oakland ordinance restricts the time to thirty days, forbids the bringing in of special stock for the auction, requires the filing of a complete list with the city authorities of all the goods to be auctioned and their value, and forbids the holding of auctions between six in the evening and eight in the morning. Both ordinances were held reasonable exercises of the police power and free from arbitrary discrimination.

TAXATION—PUBLIC PURPOSE

Old Age Assistance. In 1923 a statute was enacted in Pennsylvania providing for the relief of persons who had attained the age of 70 or more whose financial circumstances in property or income were below a fixed sum. Such persons must show prior citizenship and residence in the state for fifteen years. Their property must not exceed \$3,000. The maximum amount of relief was fixed at one dollar per day. In *Busser v. Snyder*⁸⁸ the supreme court of Pennsylvania held this statute void as in conflict with the clause of the state constitution providing "No appropriation, except for pensions, or gratuities for military services, shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation or association." The court took the position that the act could not be sustained as a poor law, since a person with property of \$3,000 could hardly be called a pauper. There seemed no other basis upon which it could be saved from the prohibition of the provision quoted above.

⁸⁶ 243 Pac. 55, December, 1925.

⁸⁷ 147 N.E. 750, April, 1925.

⁸⁸ 128 Atl. 80, February, 1925.

AMERICAN GOVERNMENT AND POLITICS

FIRST SESSION OF THE SIXTY-NINTH CONGRESS
December 7, 1925, to July 3, 1926¹

ARTHUR W. MACMAHON
Columbia University

The regular long session of the 69th Congress met in December to harvest the legislative fruits of the Republican victory of 1924, then almost too well dried by thirteen months' standing and a little damaged by some bad weather in the special session of the Senate. The spirit of quiet husbandry, almost bereft of partisanship, was signalized by the enactment of the Revenue Act of February 26, 1926, which at last virtually realized the oft-frustrated "Mellon plan" of tax revision. Within two months, however, the propitious, if hardly exciting, skies that looked down on these early scenes were darkened, and an almost dramatic transition from sunshine to the shadow of farm-relief perplexities and the distant thunder of the oncoming primaries invested the session with other points of interest besides its industry and output. The session was unusually busy throughout. In 158 days of actual meetings, it ground out 986 public and private laws and resolutions, as against 393, 152, 121, and 109 pieces of legislation in the first sessions of the 68th, 67th, 66th and 65th Congresses, respectively.²

Party Membership. The Republican majority in the House had not been changed in the by-elections by which six vacancies caused by death were filled. The presidential system attaches little significance to such contests, and those of 1925 revealed no defined trend in either direction.

¹ For previous notes on the work of Congress, prepared by Lindsay Rogers, see AMERICAN POLITICAL SCIENCE REVIEW, vol. 13, p. 251; vol. 14, pp. 74, 659; vol. 15, p. 368; vol. 16, p. 41; vol. 18, p. 79; vol. 19, p. 761.

² A total of 13,909 bills and resolutions were introduced in the House during the first session of the 69th Congress, as against 10,481, 9,775, 11,419, and 6,873 in the first sessions of the 68th, 67th, 66th, and 65th Congresses. In the House of Representatives, according to the tally clerk, there were 1,495 committee reports, of which 615 were on the private calendar. At the time of adjournment, 1,321 of the bills reported had been acted upon and 174 were pending.

When Congress convened the Republicans in the House numbered 247, the Democrats 183, the Farmer Labor members 3; and there was one Socialist (Mr. Berger) and one independent elected with Socialist endorsement (Mr. LaGuardia of New York). A Republican member, John W. Langley of the 10th Kentucky district, subsequently resigned after his conviction on grounds of conspiracy in connection with the prohibition laws;³ but on the other hand a Democrat, John E. Raker of the 2nd California district, died without actively participating in the work of the session. Several contests were settled in favor of the incumbents under the roll at the time of organization.

In the Senate, three of the four vacancies which death brought during 1925 were filled by appointment, with the Republicans gaining a seat in Indiana. In a special election in Wisconsin in September, Robert M. LaFollette was chosen in his father's place, receiving 55.8 per cent of the votes in the Republican primary and 67.5 per cent of the vote in the special election itself. Doubt arose as to the right of the governor of North Dakota to appoint Gerald P. Nye to take the place of E. F. Ladd. The question was of a constitutional nature, but it gained interest because Governor Sorlie, although elected as a Republican, had been chosen with Non-Partisan League endorsement. The legal issue turned on the question whether the language of the Seventeenth Amendment "that the legislature of any state may empower the executive thereof to make temporary appointment . . ." had been met by a provision in a North Dakota law of 1917 (ch. 249) that "all vacancies . . . shall be filled by appointment . . . in State and district offices by the governor." The immediate question was whether a senator is a state officer within the meaning of this phrase. On January 7, 1926, the Senate committee on privileges and elections reported adversely to Mr. Nye (S. Res. 104, p. 1256).⁴ After debate on five successive days, however, a motion to reverse the recommendation of the committee was carried on January 12 by 41 (26 Democrats,

³ A special committee on this case reported on Dec. 22 (*Congressional Record*, p. 943) recommending no action while Mr. Langley still had a chance of appeal, "in accordance with precedent that final action shall not be taken until a criminal charge has been disposed of in the court of last resort." Mr. Langley resigned on Jan. 11, after the Supreme Court had denied his application for a writ (p. 1491).

⁴ The reference here (as always when pages are given without further citation) is to the *Congressional Record*, 69th Congress, 1st Session, vol. 67. The Nye case is discussed at pp. 1256-1276, 1314-1324, 1356-1369, 1445-1471, 1525-1532. A brief in behalf of Mr. Nye is reprinted at pp. 1273-1275.

14 Republicans, 1 Farmer Labor) to 39 (31 Republicans, 8 Democrats), and Mr. Nye was at once seated (p. 1531). On the other hand, the Senate sustained a nine-to-one recommendation from the committee in the contest between Smith Brookhart and Daniel F. Steck for the Iowa seat, and on April 12 (p. 7144) seated the Democrat in place of Mr. Brookhart by a vote of 45 (16 Republicans, 29 Democrats) to 41 (31 Republicans, 9 Democrats, 1 Farmer Labor). The nominal party grouping in the Senate then stood: Republicans, 55; Democrats, 40; Farmer Labor, 1.

The Organization of Congress. With these majorities, the Republicans built their machine without the difficulties that had embarrassed them in the previous Congress. The question of the speakership had been settled at the caucus of the Republican members-elect on February 27, 1925, Nicholas Longworth of Ohio being nominated by a vote of 140 to 85 over Martin B. Madden of Illinois. The caucus of Democratic members-elect on the following day nominated Finis J. Garrett of Tennessee, with the understanding that he would succeed himself as floor leader. On December 7, Mr. Longworth was formally elected speaker, receiving 229 votes to 173 for F. J. Garrett, and 13 for Henry A. Cooper, dean of the Wisconsin delegation.

In providing for party assignments to standing committees the established methods were followed. The Republican caucus on February 27, 1925, had authorized a committee on committees of one member from each state, chosen by the delegation thereof and possessing a voting power proportionate to its size. This committee had taken up its task immediately after March 5. The Democratic caucus of February 28 had nominated nine members for reelection to the minority places on the ways and means committee and had authorized them to act as a committee on committees. The ratio for the division of places on the major committees was fixed at 13 to 8, instead of 12 to 9. On December 7, by formal resolution, seven of the committees were elected, in the face of a little twitting from the Democratic side on the incompleteness of the action. The choice of the standing committees was completed by the perfunctory adoption of a further resolution on December 16 (H. Res. 50, p. 534).

The central working organization, built afresh in the House and largely carried over in the continuously organized Senate, stood as follows:

Senate

Republican

Democratic

Moses (N. H.) president pro tem. Robinson (Ark.) floor leader

Curtis (Kan.), floor leader	Harrison (Miss.), assistant floor leader
Watson (Ind.), assistant floor leader	Gerry (R. I.), whip
Jones, W. L. (Wash.), whip	Steering Committee
Steering Committee	Robinson (Ark.)
Wadsworth (N. Y.), chairman	Gerry (R. I.)
Butler (Mass.)	Harrison (Miss.)
Dale (Vt.)	Broussard (La.)
Gooding (Idaho)	Caraway (Ark.)
Norbeck (S. D.)	Heflin (Ala.)
Pepper (Pa.)	Jones, A. A. (N. M.)
Willis (Ohio)	Kendrick (Wyo.)
	Pitman (Nev.)
	Sheppard (Tex.)
	Simmons (N. C.)
	Swanson (Va.)
	Walsh (Mont.)

House of Representatives

<i>Republican</i>	<i>Democratic</i>
Longworth (Ohio), speaker	Garrett (Tenn.), floor leader
Tilson (Conn.), floor Leader	Oldfield (Ark.), whip
Vestal (Ind.), whip	
Snell (N. Y.), chairman of the Rules Committee	
Steering Committee	No party agency corresponding to the steering committee exists.
Tilson (Conn.)	
Darrow (Pa.)	
Denison (Ill.)	
Magee (N. Y.)	
Newton (Minn.)	
Sinnott (Ore.)	
Tincher (Kan.)	
Treadway (Mass.)	
Vincent (Mich.)	

Procedure in the House. Almost the first act of the House of Representatives was to rescind the discharge rule which the so-called progressive bloc had managed to extract from the reluctant Republicans

in the early days of the deadlocked 68th Congress.⁵ On December 7 (p. 9) at the instance of the chairman of the committee on rules, the procedure for the discharge of committees (subd. 4 of Rule XXVII) was changed to provide that a motion might be entered on a "calendar of motions to instruct committees," if signed by a majority of all the members (entailing 218 signatures instead of 150), whence such a motion might be called on the third Monday of each month if seconded then by a majority of all the members. If the motion was then approved by a majority of all the members, the committee in question would be required to report within fifteen days. To the argument that this entails obtaining a majority of the elected members three times, whereas appropriations of many millions could be passed by a majority of a bare quorum, Chairman Snell replied that their enactment was the "normal and logical thing" but the discharge of a committee was a "revolutionary and radical thing," which, like suspending the rules, should require an extraordinary majority (p. 13). To Mr. Garrett's contention that it would "absolutely destroy the remotest possibility of discharging any committee in this House," Mr. Snell said further: "I admit that it is not an easy rule to work, and no conscientious, responsible legislator could stand on this floor and advocate one that was . . ." (p. 15). The resolution carrying the new provision—the only change of importance in the rules during the session—was adopted by 208 (including 43 Republicans who had voted for the discharge rule in the 68th Congress) to 196 (pp. 16-17). Mr. Snell sounded the keynote of the majority leaders when he said: "By what we do we will be judged and not how we do it. . . . The responsibility is ours and we accept it" (p. 15).⁶

Leadership in the House was integrated and neatly effective in so far as it knew its mind; speaker, floor leader, and steering committee merged almost indistinguishably, with the chairman of the rules committee as an instrument. Although the white light which is supposed

⁵ See this Review, Vol. 19, p. 764 (November, 1925).

⁶ The "calendar of motions to instruct committees" remained vacant through the session. It may be added in the same general connection, however, that on April 8 (pp. 6887-6897) an attempt was made by Mr. Barbour (Republican, Cal.) to get a vote on a motion to discharge the Census Committee from consideration of the bill for the reapportionment of representation (H. R. 111). He sought to justify the propriety of this motion by urging that the Constitution ordained a decennial reapportionment and that the motion was a matter of "high constitutional privilege." The Speaker ruled against him on this point and was sustained by a vote of 87 to 265 (p. 6897).

to beat upon a throne hardly illuminates the steering committee (whose membership, indeed, could scarcely be learned from reading the daily press), the committee was referred to constantly and its influence was for the most part taken as a matter of course, although sometimes with a mild note of criticism.⁷ Typical of the way in which the machinery of leadership was regarded in practice was Mr. Collier's question on June 4: "At the request of several gentlemen on this side, I wish to ask the gentleman from Connecticut if he has anything to give out as to the work for next week?" To this Mr. Tilson replied: "The program for next week is not entirely made up. I hope to get it before the day is over and will certainly have it up tomorrow at the usual time." (p. 10661).

The mediating rôle of the committee chairmen was carefully respected.⁸ The custom whereby the chairman and ranking minority member of a committee control the division of equal amounts of time was of course followed, but the chairman of the rules committee illustrated the non-partisanship characteristic of so much Congressional legislation when, in presenting the special rule for twelve hours of general debate on the rivers and harbors bill, he remarked, "In looking over the committee I find that the chairman and the ranking member of the minority are both in favor of the bill, but I have taken this matter up with them . . .," and he added that each had agreed to reassign control of half of his time to a member of the committee of his party who opposed the bill (May 22, p. 9809).

The reporting of special rules for the consideration of particular

⁷ Regarding the majority steering committee, Mr. Pou, the ranking minority member of the rules committee, remarked incidentally on June 18: "Now, Mr. Speaker, it is a matter of common knowledge that the business of this House is controlled by the Republican steering committee. I do not criticize this committee, but I cannot approve the system. It cannot be denied that the steering committee is all powerful. It can and does forbid the consideration of any measure to which a majority of the steering committee is opposed. This may be a surprising statement to some, but the steering committee is more powerful than any of the regular constituted committees of this House. It is more powerful than the committee on rules, because the majority of the committee on rules will not report any special rule in defiance of the mandate of the steering committee, which is the great super-committee of this House, with power to kill and to make alive" (p. 11528).

⁸ Mr. Blanton, complaining that he could not get District of Columbia business acted upon in the absence of the chairman of the committee on District affairs, said of the majority floor leader: "He says that he deals only with the chairman of his committees, he recognizes only the chairmen of his committees to arrange and take up business—a silly, ridiculous excuse" (Feb. 20, p. 4022).

bills was an important but not outstanding phase of procedure in the House. Against nineteen such rules in the long session of the 68th Congress,⁹ sixteen resolutions for special orders were reported by the rules committee and agreed to in the first session of the 69th Congress. In addition, at least seven proposed special rules for consideration of bills were reported by the rules committee, but not adopted; and many others were asked. With the exception of the farm-relief bills and the rivers and harbors bill, moreover, the big troublesome items of legislation of the session were handled without resort to special rules.¹⁰ This did not imply opposition to the device; in the sixteen instances of its exercise hardly a word of criticism was directed at the method itself. Thirteen of the rules specified a maximum period of general debate in committee of the whole (varying from one to twelve hours), to be followed by the reading of the bill for amendment under the five minute rule, after which the previous question was to be considered as ordered on the bill and the amendments adopted in committee of the whole.

The most interesting rule of the session, of course, was that adopted on May 4 (H. Res. 249, H. Rept. 1051, p. 8624) to solve the dilemma of the committee on agriculture, which wanted the House to consider farm-relief legislation but was unable or unwilling to give a majority to any one of the three alternative bills that sought to meet the problem of the agricultural surpluses.¹¹ The rule provided for the reporting of all three bills and for not more than four days of general debate, with one-third of the time to be controlled by Mr. Haugen (chairman of the committee), one-third by Mr. Tincher (a Republican colleague whose bill had the support of the Administration), and one-third by Mr. Aswell, ranking minority member; and with the further provision that at the end either the Tincher bill or the Aswell bill could be offered as a substitute for the Haugen bill. "I would not," said the chairman of the rules committee, "want this to go down as a precedent... but I believe it is as good a rule as you could have to meet the conditions confronting us..." (p. 8622).

⁹ See *Political Science Quarterly*, Supplement, Record of Political Events, March, 1925, pp. 69-70.

¹⁰ The device of moving to suspend the rules and pass a bill (two-thirds being required) was used in the passage of the public buildings bill (H. R. 6559, Feb. 15, p. 3723), the bill for the deportation of certain aliens (H. R. 12444, June 7, p. 10820), and a bill to regulate practice before the Patent Office (H. R. 10735, June 7, p. 10821).

¹¹ *Infra*, p. 615.

Procedure in the Senate. Senate procedure gave even franker recognition to the existence of a majority steering committee than in the House, and as a party organ the committee was relatively more important in the upper chamber. On April 30, for example, Senator Wadsworth, signing himself "chairman," addressed a letter to all the senators which opened: "I am instructed by the committee on order of business of the Republican Conference to inform you that the committee at a meeting held on Thursday, April 29, made a careful examination of the bills now pending upon the Senate calendar and decided to suggest the wisdom of taking up and disposing of the following measures. . . ."¹² Ten items on the Senate calendar were then specifically mentioned, with the stipulation at the end, "it should be understood that appropriation acts shall have the right of way." Ostensibly, at least, "the steering committee cannot consider what bills will be taken up until the bills are reported."¹³ In the work of the Senate committee, unlike that of the House, there has been the appearance of separation from the functions of floor leadership.¹⁴

'On January 25, the Senate's cloture rule (Rule XXII) was successfully invoked for the second time since its adoption in 1917, and again on a question of foreign policy. The intractability of Senator Blease of South Carolina in the debate on adherence to the World Court created the situation which on January 22 (p. 2268) led to the filing of the motion "that debate on the pending measure, S. Res. 5, be brought to a close."¹⁵ It was signed by forty-eight members, three times the

¹² *United States Daily*, May 1, 1926, p. 1.

¹³ Senator Curtis, majority leader, remarked on May 13 (p. 9285): "Mr. President, the steering committee cannot consider what bills will be taken up until the bills are reported and are on the calendar. The steering committee cannot go to a committee and say, "You have to report out this bill. After bills get upon the calendar the steering committee is ready to act upon any bill in which any senator is interested, if he will appear before it."

¹⁴ Illustrations of this were frequent in the remarks of Senator Curtis, majority leader. On June 1 (p. 10366) he announced for the information of Senator Cope land: "Mr. President, as I promised the senator, when the steering committee met last week I presented his request, together with the requests of a number of other senators. The chairman of the steering committee is arranging the program now and hopes to call the steering committee together within a day or two and arrange a program for the rest of the session. The senator's bill was presented to the committee by me as one of the bills to be taken up by the committee with a view to putting it on the list. I cannot say, of course, what they will do."

¹⁵ Senator Pat Harrison, assistant Democratic floor leader, after remarking "such tense moments as this are unwelcome of course to all senators," said on Jan-

number necessary. The automatic operation of the rule brought the motion to a vote one hour after opening on January 25 (p. 2343), when it was adopted by a vote of 68 (37 Republicans, 31 Democrats) to 26 (18 Republicans, 7 Democrats, and one Farmer Labor member), with only two senators absent. Under it the question of adherence to the World Court was disposed of affirmatively two days later. An attempt later in the session to employ the cloture rule in connection with the migratory bird bill (S. 2607) failed to obtain the necessary two-thirds vote. After this bill had been unfinished business for upwards of fourteen days, a cloture motion was circulated by Senators McKellar and Norbeck toward the close of the meeting on May 28 and quickly obtained the sixteen signatures required by the rule. It was defeated on June 1 (p. 10358), however, receiving 46 votes (36 Republicans, 10 Democrats) to 33 in opposition (8 Republicans, 24 Democrats, one Farmer Labor). Vague references to the possibility of cloture in connection with other bills—as, for example, in Senator McNary's complaint on June 5 (p. 10732) of filibustering on the federal aid road bill—did not even reach the stage of a motion.

The broader question of restriction of debate in the Senate, so widely advertised by the Vice President, not only was raised through the session in occasional remarks aimed at the chair (for example, in some characteristic raillery by Senator Harrison on December 10 (p. 238), but also was involved in some resolutions to amend the rules which were introduced, among others, by Senators W. L. Jones (pp. 92, 235, 8492), Fess (p. 93), and Underwood. The latter's proposal (S. Res. 225, introduced May 17) to permit the previous question in connection with revenue bills and general appropriation bills elicited an interesting but inconclusive debate on June 4 (pp. 10639-10656).¹⁸

The Rôle of the Blocs. The elections of 1924 practically restored the balance that existed prior to 1922, if the groups involved had the

uary 22 (p. 2272): "I hope the senator from South Carolina will withdraw his objection to the agreement offered by the senator from Arkansas," referring to the arrangement which the minority leader had concluded with Senator Borah, head of the opposition to the World Court, as well as chairman of the Committee on Foreign Relations, for a final vote on February 10. Senator Harrison urged his colleague not to give aid and comfort to Vice President Dawes' proposal for restriction of debate in the Senate.

¹⁸ The proposal was then opposed especially by Senators Robinson, Hefflin, and Reed of Missouri. On the relation of its procedure to the Senate's place in our political institutions, see Lindsay Rogers, *The United States Senate* (New York, Knopf, 1928).

will to use their power. The progressive faction was hardly weaker in absolute numbers, and the disciplinary measures threatened by the Republican leaders did not go to the grim lengths bruited at the time of the February and March caucuses.¹⁷ Its leverage was greatly impeded, however, not only by the increased Republican majorities but also by the fact that, with new-found caution, the Democrats tended to withdraw the fulcrum altogether. The situation as it stood in the early part of the session was illustrated on February 12 (p. 3605) when Senator Norris pleaded vainly with the Democrats to support his proposed amendment to the revenue bill providing for a 25 per cent instead of 20 per cent surtax maximum: "Now is their chance to get it—right now. With the Democratic party over there united for a 25 per cent maximum on incomes in excess of \$1,000,000, I guarantee them enough votes over here to put it over right now, on this coming roll call." Only ten Democrats responded. Collaboration increased, however, as the session advanced.

References to a farm bloc as such, especially during the later part of the session, were incessant in the press and frequent even in remarks made in Congress. In so far as a farm bloc was active, however, it seemed less definitely organized than the bi-partisan group, with its sub-committees and meetings, which was integrated around the lobby of the American Farm Bureau Federation in the 67th Congress.¹⁸ The center of gravity had apparently moved somewhat eastward along the Corn Belt. The spearhead of the immediate movement for agricultural legislation in the 69th Congress was the North Central States Agricultural Conference, organized at Des Moines on January 28, 1926, as a result of an impetus that had originated in the "All-Iowa" conference on December 29, shortly after President Coolidge elaborated before the American Farm Bureau Federation convention the remarks

¹⁷ In the House, despite the resolution adopted by the Republican committee on committees in the spring, ". . . that in the selection of the committees we recognize as Republicans only those who supported the Republican national ticket and platform in the last campaign," the assignments finally completed on December 15 treated the LaFollette supporters as Republicans, although shoving them to the tail-ends of relatively unimportant committees. In the Senate, the leaders retreated even further. On December 14, for example, the Republican committee on committees—previously deadlocked on the issue—decided to assign young Senator LaFollette as a Republican, although he wrote (December 15) declaring his "allegiance to the progressive principles and policies . . . of the late Robert M. LaFollette."

¹⁸ See Phillips Bradley, "The Farm Bloc," *Journal of Social Forces*, vol. 3, pp. 714-718 (May, 1925).

in his message that counseled a patient confidence in natural economic laws. The North Central States Agricultural Conference (generally called the Corn Belt Conference) put the lobbying work in charge of an executive committee of twenty-two representing the eleven participating states, Iowa, Illinois, Michigan, Wisconsin, Ohio, Indiana, Minnesota, Missouri, Kansas, Nebraska, and South Dakota. George N. Peek, president of the Moline Plow Company, was chairman of this committee. Vice President Dawes was understood to have given its plan his approval,¹⁹ as did Senator Watson of Indiana, the assistant floor leader, at whom Senator Pat Harrison jibed for "shifting his position from clinging to Cal and standing by Andy to saving himself by grabbing to Charlie" (June 8, p. 10883).

Pressure on Congress began about March 1, and was strong enough to shift the whole legislative scene and to compel open consideration and a vote in both houses. Again, however, agriculture revealed its inability to maintain a united front when facing innovative legislation with a sectional turn.²⁰ The House committee on agriculture was in continuous session from March 4, when the North Central States Agricultural Conference appeared, until April 23.²¹ The Administration

¹⁹ The student of human ambition may think it unnecessary to go beyond an obvious explanation that can be offered for Mr. Dawes' attitude. The student of sectionalism, however, will possibly find it an illustration of how the cumulative effects of five years of phenomenally frequent country bank failures command attention not only from those high in the agricultural implement industry but also in the sanhedrin of Middle Western finance. For one reason or another, certainly, the Vice President was willing to risk giving aid and comfort to the twittering political peewits which in 1924 were to have no refuge from his gun. It was said later that Mr. Dawes weakened in his support of the McNary-Haugen bill when preferential treatment of cotton in connection with a postponement of the collection of the equalization fee was introduced into the draft of the bill (press of June 23). Regarding sectional unity on the whole proposal, Senator Norris observed: ". . . we have now reached an interesting phase of this history of legislation for farm relief, when the farmers of the West and the business men of the West presented a united front, or as near united as I have ever seen in all my service on the agricultural committee in regard to any proposition. . ." (June 14, p. 11259).

²⁰ On the earlier phase, see the revealing votes in the 68th Congress by which the Norbeck-Burtress bill (S. 2250) proposing loans for crop diversification in the wheat-growing states was defeated in the Senate on March 13, 1924, by 32 to 41 (*Congressional Record*, vol. 65, p. 4084), and by which the original McNary-Haugen bill was rejected in the House on June 3, 1924, by a vote of 155 to 223 (*ibid.*, p. 10341).

²¹ See *Hearings before the Committee on Agriculture*, House of Representatives, Sixty-Ninth Congress, First Session, Serial C, parts 1-16, pp. 1-1412, on Agricultural Relief.

originally favored only the nearly non-controversial bill for the creation of an advisory division of coöperative marketing in the Department of Agriculture (H. R. 7893, later enacted into law as Public No. 328). On April 10, however, Secretary Jardine indicated that the Administration approved the provision of a large revolving fund from which loans might be made to coöperative associations, and thus endorsed the Tincher bill (H. R. 11618) which contemplated a loan fund of \$100,000,000. Mr. Aswell of Louisiana, ranking Democratic member of the House Committee, sponsored the so-called Yoakum plan (H. R. 11606) calling for the incorporation of a voluntary national farm marketing association (the fiduciary officer being designated by the President of the United States), for interstate zone coöperative marketing associations, and for a loan fund of \$10,000,000. The recommendations of the Corn Belt Conference were embodied in the revised Haugen bill (H. R. 11603, Report No. 1003), with its provision for a federal farm board that would sell the surpluses of wheat, corn, butter, cattle, swine, and (under somewhat different conditions) cotton, when the domestic "price of any such commodity . . . is materially lower than the price thereof in the principal export market of the principal competing foreign country, plus the amount of tariff duty thereon and plus the charges normally incurred in transportation . . ." (sec. 8, c), with its provision for an equalization fee to be collected from producers, but not for two years, and with its provision for a revolving fund of \$375,000,000. No one of these three bills could command a majority in the House committee on agriculture. How all three were reported on April 27 under a special rule has already been told (*supra*, p. 610). On May 21 the House rejected the Haugen bill by 167 to 212 (p. 9789). The vote was sectional, and neither party nor vocational lines held.²² Of the Republicans who voted, 55.6 per cent were opposed; of the Democrats, 56.7 per cent.

The Senate in the meantime had awaited action on the bill in the House. Despite its defeat there, however, and despite Secretary Mellon's published letter of condemnation of the Haugen bill on June 14, the forces behind the bill (now offered as a Senate committee amendment to H. R. 7893) remained strong enough to force another long bout

²² Majorities of the state delegations of twenty-two states favored the Haugen bill, as follows: Ala. (6 to 3); Ariz.; Colo.; Idaho; Ill.; Ind.; Iowa; Kans.; Minn.; Mo.; Mont.; Nebr.; Nev.; N. M.; N. C. (7 to 2); N. D.; Okla.; S. D.; Utah; Wash.; Wis.; Wyo. The delegations of twenty-four states were preponderantly in opposition. Those of Ark. and Fla. were tied.

of debate and another vote. On June 24 (p. 11912), however, the Senate rejected it by 39 (23 Republicans, 15 Democrats, 1 Farmer Labor) to 45 (24 Republicans, 21 Democrats). Substitute plans were likewise defeated, notably the Fess bill (S. 4482, virtually embodying the Tincher bill) which, although supported by a direct and lengthy statement from President Coolidge on June 25, was defeated on June 29 (p. 12262) by 26 (23 Republicans, 3 Democrats) to 54 (21 Republicans, 32 Democrats, 1 Farmer Labor). In the end only the innocuous bill (H.R. 7893) for a division on coöperative marketing was enacted into law. The fatal weakness of the movement for the Haugen plan was the refusal of consistent support in the South.²³ Especially when taken in conjunction with the primaries (the reverberations of which sounded through the debate in the later part of the session), the conditions attendant on the double consideration of the farm-relief bill promised more troublesome insurgency; but, from the long-run viewpoint, Republican leadership could find reassurance in the failure of a *rapprochement* between West and South.

The Legislative Record: Laws enacted. Of the grand total of 896²⁴ public and private laws and resolutions that became law, 327 were private, 46 were public resolutions, and 523 were public laws. It is unnecessary to give figures to show how few of the latter were, by their nature, of general interest; for the session was typical in this respect. Enactments of importance included the following:

(1) The Revenue Act of 1926 (H. R. 1, approved February 26, Public No. 20) was first passed in the House on December 18 (p. 733) by a vote of 390 to 25 (10 Republicans, 10 Democrats, and 5 others) and in the Senate on February 12 (p. 3614) by 58 to 9 (6 Republicans, 2 Democrats, 1 Farmer Labor).

²³ The Haugen plan seemed tied up with the tariff. Not without logic, Democratic spokesmen attacked it on the ground that it involved the bad principle of seeking equality by having "special privilege all around"; but their argument was not oblivious to such considerations as these: "The state of Mississippi last year imported into her borders nearly \$3,000,000 of feed and food. Increase that on the average of 50 per cent and the Haugen bill would cost the people of Mississippi more than a million dollars. . . ." (Mr. Aswell, May 6, p. 8755).

²⁴ The rôles of the two chambers in the initiation of measures are indicated by the fact that the total, 896, comprised 557 House bills, 290 Senate bills, 24 House joint resolutions, and 25 Senate joint resolutions. In measuring the life-expectancy of bills, it should be remembered that the total, 896, includes 5 omnibus pension bills which covered 2,717 private pension bills, making virtually a total of 3,608 bills which became law out of 17,794 bills introduced in both houses during the session.

(2) Six acts ratified the debt settlements with Italy (H. R. 6773, approved April 28, Public No. 155), Belgium (H. R. 6774, approved April 30, Public No. 159), Estonia (H. R. 6775, approved April 30, Public No. 160); Latvia (H. R. 6776, approved April 30, Public No. 161), Czechoslovakia (H. R. 6777, approved May 3, Public No. 163), and Rumania (H. R. 6772, approved May 3, Public No. 167). Of these, the Italian settlement elicited the most controversy, but was passed by the House on January 15 (p. 1786) by 257 to 133 and by the Senate on April 21 (p. 7761) by 54 (41 Republicans, 13 Democrats) to 33 (9 Republicans, 23 Democrats, 1 Farmer Labor). At the close of the session the bill regarding the French debt (H. R. 11848, which passed the House on June 2 (p. 10477) by 236 to 111), was being held in the Senate pending action in France. The bill on the Serbian debt (H. R. 11948) passed the House on June 4 and was also waiting in the Senate.

(3) The Public Buildings Act (H. R. 6559, approved May 25, Public No. 281) contemplates the expenditure of about \$165,000,000 over a period of years in a program that will be drawn and presented from year to year by the Supervising Architect and the Bureau of the Budget. The General Deficiency Act carried an appropriation for the immediate future. Related thereto is the Foreign Service Buildings Act (H. R. 10200, approved May 7 Public No. 186), authorizing \$10,000,000 (with an annual maximum of two millions) for the acquisition of buildings abroad under the supervision of an *ex officio* foreign service buildings commission.

(4) The Railroad Labor Act (H. R. 9463, approved May 20, Public No. 257) was practically drafted by the railroad brotherhoods and the executives in collaboration; it abolishes the Railroad Labor Board and institutes a new Board of Mediation (five members appointed by President and Senate) and a flexible scheme of arbitral boards.²⁶

(5) A general and necessarily technical revision of the National Bankruptcy Act was passed (S. 1039, approved May 27, Public No. 301).

(6) Three acts bearing on aircraft development became law. The Air Commerce Act (S. 41, approved May 20, Public No. 254) relates to commercial aircraft and its regulation and encouragement by the Department of Commerce. Another act (H. R. 9690, approved June 24,

* Politically, the Railroad Labor Act is significant because it is likely to take still more of the edge off the interest of the railroad brotherhoods in protest-politics, so important in recent years in such movements as the Conference for Progressive Political Action.

Public No. 422) relates to the Navy Air Corps, authorizing \$85,000,000 therefor, exclusive of the cost of increased personnel. A third, the Army Air Corps Act (H. R. 10827, approved July 2, Public No. 446) involves a program of about \$150,000,000 over a period of five years. Each act creates new post of assistant secretary in charge of air in the department concerned.

(7) A revision (H. R. 7, approved June 3, Public No. 522) of the Civil Retirement Act was enacted providing a maximum annuity of \$1,000 and salary deductions of $3\frac{1}{4}$ percent.

(8) In the field of military pensions and veterans' relief, in addition to the five omnibus pension bills, three measures liberalize pensions in connection with the Civil War (H. R. 4023, approved July 3, Public No. 454), Indian wars (H. R. 306, approved May 21, Public No. 265), and the Spanish American War and Philippine insurrection (H. R. 8132, approved May 1, Public No. 166). In connection with the World War, the Adjusted Compensation Act was amended (H. R. 10277, approved July 3, Public No. 472, and H. R. 12175, approved July 2, Public No. 448), increasing expenditures in this direction about \$15,000,000 and bringing the total for World War relief (according to Mr. Tilson) to "nearly \$700,000,000 annually, almost as much as the entire cost of government prior to the war."

(9) Continuation of the federal aid policy in road-building was assured for several years by the authorization (H. R. 9504, approved June 22, Public No. 411) of \$82,500,000 for each of the fiscal years 1928 and 1929.

(10) A codification of all national laws in force December 7, 1925, was adopted (H. R. 10000, approved June 30, Public No. 440), and provision was made for its publication (H. R. 11318, Public No. 441).

Bills that Failed of Passage. Two relatively important bills—on radio regulation and on banking—were in conference when the session ended, having been held up by serious differences of opinion between the houses. The dispute regarding the radio bill (H. R. 9971) turned chiefly on the House proposal to empower the Secretary of Commerce as against the Senate provision for a new independent commission. On the last day a stop-gap resolution (S. J. Res. 125) was hurried through, to preserve the *status quo* in the radio field until the short session can legislate permanently. The McFadden bill (H. R. 2) for the revision of national banking laws with special reference to branch banking was held in the conference stage principally because of disagreement

over the Hull amendment limiting the branches of national banks to states which themselves permit the practice.

Other measures of general interest did not come so near passage. The omnibus rivers and harbors bill (H. R. 11616), having encountered something like filibustering on the grounds especially of opposition to the "All American" canal and to Chicago diversion, passed the House on June 4 and is pending in the Senate. The constitutional amendment (S. J. Res. 9) to change the commencement of the terms of President, Vice President, and Congress, having passed the Senate on February 15 (p. 3668) by 73 to 2, was reported in the House on February 24, but failed to be acted upon. The coal strike situation provoked the introduction of some sixty bills, but (except for the still-born Copeland resolution urging the President to use his good offices, passed in the Senate on February 9, p. 3283, by 55 to 21) none of the proposals got beyond committee. A joint committee on Muscle Shoals was established (H. Con. Res. 4, passed in the House January 5 and in the Senate on March 13, and a bill approving of particular leases to the Muscle Shoals Fertilizer Company and the Muscle Shoals Power Distributing Company) was reported on April 26, but was not considered. Prohibition was the subject of an increased number of bills, and these furnished an opportunity for hearings, especially before a sub-committee of the Senate committee on judiciary, which were widely noted and became a vehicle for argument and propaganda from both sides. No legislation was passed, however, although two nearly non-controversial bills on the administrative side of the subject were passed by the House and reported in the Senate (H. R. 10729, passed April 27, creating a bureau of prohibition in the Treasury Department, and H. R. 3821, passed March 29, placing prohibition officers under the civil service laws).

Appropriations. The enactment of nine regular and three deficiency appropriation acts was an important part of the routine of the session. The House was expeditious and passed the last of the regular annual acts on April 7, beating the best previous record (in the 67th Congress) by twelve days. Yet the opening discussion of each appropriation bill was, as usual, the vehicle for what Mr. Tilson called "general debate, in the large sense of the term" (p. 761). When, for example, immediate consideration was asked for the Interior Department appropriation bill, it was said that printed copies had been available only for an hour (causing Mr. Cooper, of Wisconsin, to explain that "of all the extraordinary attempts to work in pure machine politics

this is one of the most remarkable illustrations I have yet seen in all my career in the House"—Jan. 5, p. 1145). But the chairman of the sub-committee explained genially the next day, "there were as many as fifty applications for time, and it seemed as if everybody wanted to make a speech, and so the chairman of the committee, out of a desire to accomodate the membership of the House, said we will turn you loose and let you make speeches all day (Laughter). That is the only reason we did it" (p. 1237).

The total of the appropriations was for the fifth time²⁶ less than the budget estimates. A net reduction of \$6,802,000 was "arrived at by a large number of small increases and a still larger number of decreases widely distributed over the entire service"²⁷. The total appropriations of the session amounted to \$4,409,377,454, or \$3,567,054,543 if the postal appropriations (nearly offset by the postal revenues) are excluded. The aggregate appropriations were \$470,886,681 (or \$273,603,305, excluding postal appropriations) above those made in the last session of the 63th Congress. A comparison is offered in the accompanying table, which shows the budget estimates, the amounts carried in the bills as reported to the House by the committee on appropriations, the sums finally appropriated, and the relation of these to the estimates and to the amounts appropriated by the corresponding acts in the short session of the 68th Congress (p. 622 below).

The Senate as Council and as Court. The resclution of adherence to the World Court was adopted in the Senate on January 27 (p. 2494) by a vote of 76 (40 Republicans, 36 Democrats) to 17 (14 Republicans,

²⁶ See this REVIEW, vol. 19, p. 769 (November, 1925). Mr. Madden states that the cuts in the estimates that have been made since the establishment of the system in 1921 aggregate \$351,526,429, of which, however, \$312,361,792 was in connection with the first set of estimates.

²⁷ *Congressional Record*, vol. 67, July 12, 1926, p. 13007, in the "review of appropriations, etc., by the chairman of the House committee on appropriations, Mr. Madden. The figures presented above in the text and in the subjoined table are taken from that source, from a review by the chairman of the Senate committee in the same issue, and in the case of one column from information supplied directly by the clerk of the House committee.

It should be remembered that discrepancies between the amounts called for in the budget estimates and in the bills as reported by the House committee on appropriations are especially likely in the case of the deficiency bills, for "as soon as the House committee reaches a point where it must conclude its consideration in order to get the bill into the House, word is sent to the Bureau of the Budget to divert estimates to the Senate from that date on" (letter from the committee clerk to the writer).

2 Democrats, 1 Farmer Labor). The use of cloture has been discussed above, and the nature of the reservations and their detailed consideration are beyond the scope of this survey. The pending treaty of greatest interest—the Lausanne treaty with Turkey—was deferred by an agreement reached on July 2 (p. 12616), being made a special order for January, 1927. Executive sessions for the consideration of appointments were frequent. Some relatively unimportant nominations were rejected or withdrawn, but T. F. Woodlock was confirmed as a member of the Interstate Commerce Commission. A possible precedent of significance was set in giving unanimous consent to Senator Blease to disclose how he and his colleague (embarrassed politically in the matter) had voted on the confirmation of Commissioner Woodlock (June 26, p. 12098). Sitting as a court of impeachment to hear charges against George W. English, judge of the U. S. district court for the Eastern District of Illinois, who was impeached by the House of Representatives on April 1 by a vote of 306 to 62 (21 Republicans, 41 Democrats), the Senate decided on May 5 (p. 8667) to adjourn as a court of impeachment until November 10, 1923.

The President and Legislation. Two bills only—one a private bill and the other virtually private in character—were vetoed during the session.²⁸ Five others, but all of minor importance, were killed by pocket vetoes. "Coolidge stresses Congress' freedom—just before leaving for vacation he says it was free from dictation by him," read a headline a few days after the adjournment.²⁹ In the face of so disarming a gesture from the White House Spokesman, it would be unfair (as in any case it would be premature while important pending bills await final action in the short session) to ask how fully the presidential recommendations were realized in legislation.³⁰

²⁸ H. R. 9984, authorizing the reappointment of a certain army officer, was vetoed on May 14 because discipline required that the decisions of the efficiency board be treated as final. The other "messaged" veto, on July 2, concerned S. 4152, which sought to validate twenty oil and gas mining leases (the validity of which was questioned in pending litigation) upon unallotted lands within Indian reservations created by executive order.

²⁹ *New York Times*, July 7, 1926, over a news-story which added: ". . . it was mentioned, perhaps stressed, at the White House . . . that one of the reasons for the success of the session was that the Senate and House assumed their own responsibility and undertook to function as an independent branch of the government without too much subservience to the Executive."

³⁰ See, however, the check on this point maintained currently in the *Congressional Digest* (a private publication, Washington, D. C.)

RECAPITULATION OF APPROPRIATION ACTS, FIRST SESSION OF SIXTY-NINTH CONGRESS.

Title of act	Budget estimates Sixty-ninth Congress, first session	Totals of bills as reported to House of Rep. by Committee on Appropriations	Appropriations Sixty-ninth Congress, first session	Increase (+) or decrease (-) first session, Sixty-ninth Congress, compared with second session of the Sixty-ninth Congress, first session	Budget estimates eight Congress
REGULAR ACTS, FISCAL YEAR 1927					
Agriculture, Department of	\$180,016,508.	\$126,770,805.	\$127,924,573.	-\$2,091,935.	+\$8,150,132.
District of Columbia	34,053,022.	33,757,181.	33,918,571.	-134,451.	+2,090,774.
Independent offices	512,870,315.	502,488,768.	512,928,376.	+58,061.	+60,494,042.
Interior Department	227,288,452.	228,473,638.	228,332,918.	-55,534.	-18,370,008.
Legislative Establishment	16,512,381.	16,406,727.	16,437,327.	-75,064.	+1,526,355.
Navy Department	320,955,080.	317,274,787.	319,650,075.	-1,304,055.	+32,247,747.
State, Justice, Commerce, and Labor Departments	79,936,971.	79,847,491.	79,963,851.	+26,880.	+8,228,558.
Treasury and Post Office Depts.	872,482,881.	867,852,481.	868,281,501.	-4,201,360.	+105,060,139.
War Department	338,494,226.	339,836,924.	342,609,611.	+4,116,386.	+10,326,940.
Total, regular annual acts	2,632,609,767.	2,510,457,782.	2,528,046,805.	-4,562,902.	+209,752,680.
DEFICIENCY ACTS					
First deficiency, 1926	425,573,865.	381,236,254.	426,208,681.	+724,815.	
Second deficiency, 1926	54,434,060.	43,372,065.	60,822,060.	-3,611,984.	
Pension deficiency, 1926	10,730,000.	10,730,000.	10,730,000.		
Total deficiency acts	490,738,626.	435,338,319.	487,851,377.	-2,887,148.	+270,281,220.
Total, regular annual and deficiency acts	3,023,348,293.	2,949,796,101.	3,015,898,182.	-7,450,111.	+480,038,900.
Miscellaneous relief and claims acts (estimated)			648,111.	+848,111.	-1,921,072.
Total, regular annual deficiency, and miscellaneous	3,023,348,293.	3,016,546,293.	-6,802,000.	+478,112,829.	
Permanent and indefinite appropriations	1,392,831,180.	1,392,831,160.			-7,226,148.
Grand total	4,416,179,484.	4,409,377,454.	-6,802,000.	+470,888,681.	
Grand total, exclusive of Postal Service payable from postal revenues	3,567,054,543.				+273,603,305.

FOREIGN GOVERNMENTS AND POLITICS

EDITED BY WALTER J. SHERARD

Brookings Graduate School

The National Economic Council of France. Since the war had necessitated resort to technical experts in the economic services of the French government, it was natural that after the armistice there should have been talk in various quarters of some sort of functional representation to meet post-war problems. Some suggested the development of the regional economic councils brought into being in 1917, while the Action Française was for setting up what was dubbed a new estates general. It was, however, the General Confederation of Labor (the C. G. T.) under the leadership of M. Jouhaux, which not only came forward with a carefully thought out plan¹ but was sufficiently interested to pursue the matter until seven years later the general features of its program were finally incorporated into the public law of France.

Maintaining that no purely political body like the French Parliament was equal to the solution of the complex social and economic problems that France faced, the Confederation sent a delegation to Clemenceau on December 31, 1918, and again on January 12 of the following year, to urge the formation of a National Economic Council, to be composed of representatives chosen by the chief organizations of employers and of workmen, to whom were to be added technical advisers and economists—persons, in short, employed in the actual conduct of affairs—whose object would be to reconcile conflicting interests, coördinate the action of the different ministries, and produce a scientific program for a thorough reorganization of the economic life of the country as a whole.² While the premier lent a polite ear to these suggestions, he did no more than offer a weak substitute which labor would have none of. Moreover, the Chamber of Deputies, elected in 1919, was not at all of the sort to meet suggestions from labor with any cordiality.

¹ Maxime Leroy suggests that this was a dream of Saint Simon revived by the C.G.T. (*Le Progrès civique*, January 31, 1925). Be it remembered that after the war, before the split in its ranks in 1921, the Confederation numbered over two million members.

² *Le Peuple*, May 20, 1924; *La Voix du Peuple*, March-April, 1925.

Thrown back on its own devices, the Confederation, in collaboration with the *Union Syndicale des Technicians de l'Industrie, du Commerce, et de l'Agriculture* (U.S.T.I.C.A.), the Coöperatives, and the Federation of Civil Servants, set up January 8, 1920, a so-called Economic Labor Council to devise measures to meet the crisis and to serve as a sort of training school for the eventual undertaking to which it hoped to convert the government. Although one of its proposals, that for the nationalization of railroads, went so far as to be presented on the floor of the Chamber of Deputies in the form of a bill, the Council gradually ceased to operate after about a year, possibly because of the schism in the Confederation in 1921.³

Meantime M. Jouhaux stuck to the idea of a national economic council, and at the congress of the Confederation in 1923 he secured the adoption of a more fully developed program than the one presented immediately after the armistice.⁴ And, although the plan met with criticism on the one hand from extremists in the ranks of labor on the ground that it would bolster up capitalism, and on the other from sticklers for the traditions of administrative law it gradually gained friends among various classes until, to the surprise of the Confederation, on the eve of the general election of May 11, 1924, the Paris Chamber of Commerce even secured a pledge from Poincaré to support the idea.⁵ After the election returns made it certain that France was to have a Parliament of a much more liberal sort than that which had so recently been willing to feed out of Poincaré's hand, M. Jouhaux came out in *Le Peuple*⁶ with a strong plea for the Council and followed it up until Herriot's minister of labor, M. Godart, a fearless man—one of the few, in fact, who had dared beard the Tiger during the war—appointed on July 19 a committee of inquiry to report a draft constitution for a national economic council.

Under the chairmanship of M. Godart himself were gathered distinguished economists, such as Professor Gide, and jurists as well as representatives of the leading organizations of capital and labor, including, of course, M. Jouhaux.⁷ The committee, having held several

³ *Ibid.*

⁴ Published in full in *L'Information sociale*, August 14, 1924.

⁵ *Le Peuple*, May 20, 1924. Labor, of course, felt certain that any council Poincaré might set up would give insufficient attention to its wants.

⁶ May 20, 1924.

⁷ For a complete list of the members of the committee see *La Voix du Peuple*, March-April, 1925, pp. 50-51, or *Industrial and Labor Information*, Vol. XI, No. 7, p. 16.

meetings during the succeeding months, finally completed the draft constitution on October 10.⁸ After some alterations which the cabinet thought necessary in order to bring the plan into harmony with the French constitution and administrative practice, a decree, dated January 16, 1925, finally provided for the constitution of the Council.⁹ On April 9, a few days before the fall of his cabinet, M. Herriot issued a further *arrêté* naming the specific organizations which were to choose representatives.¹⁰ Apparently the retirement of M. Herriot did not affect the fate of the institution he had just set up, for M. Durafour, who became minister of labor on April 17, was ranking member of M. Godart's draft committee, being at the time the chairman of the Deputies' committee on labor.¹¹

The organizations designated by M. Herriot proceeded to appoint their representatives, and the Council met on June 22 to effect its organization. M. Jouhaux was elected one vice-president and M. Pinot the other.¹² It is interesting to note that while M. Jouhaux is thus head of the chief organization of French manual labor, M. Pinot, the delegate of the Union of Metal and Mining Industries, is vice-chairman of the *Comité des Forges*, probably the most powerful organization of capital in France. The Council proceeded next to elect its permanent committee of ten, which includes six men who were formerly on the draft committee.¹³ Of the forty-seven members of the Council, nine are delegates of the Confederation, all but one of whom represent wage earners.¹⁴ The body which broke away from the Confederation in 1921, known as the General Confederation of United Workers (the C.G.T.U.), although having a membership considerably over half that of the Confederation,

⁸ Published in full in *La Tribune de Fonctionnaire*; and in summary in *Industrial and Labor Information*, Vol. XII, No. 5, p. 24-25.

⁹ *Journal officiel*, January 17, 1925.

¹⁰ This task of choosing organizations to be represented was a difficult one, as French economic interests are, in general, not well organized. In an attempt to remedy this in part, a decree, July 26, 1925, provided for trade councils for artisans, *Monthly Labor Review*, January, 1926.

¹¹ Professor Scelle, *chef au cabinet* of the ministry of labor, under Godart, said in the presence of the writer that, at least as far as internal affairs were concerned, M. Herriot considered the establishment of the Council the main undertaking of his administration.

¹² *Industrial and Labor Information*, Vol. XV, No. 2, pp. 13-14. The premier is *ex officio* president of the Council.

¹³ *Industrial and Labor Information*, Vol. XV, No. 2, p. 14.

¹⁴ *Journal officiel*, April 11, 1925. The other one represents the General Federation of Christian Workers.

has no representation in the Council. This is due, no doubt, to the fact that the C.G.T.U. is affiliated with the Third International, and that M. Monmousseau, its head, is indifferent if not hostile to the Council. Is it possible that the government was trying to give the Confederation a representation on the Council which would compensate it for having failed in a measure to secure the sort of body that labor demanded—one with teeth and claws? For while the draft presented by Godart's committee contained practically what the Confederation outlined in 1923, sometimes in its very words, the constitution as finally adopted pared this down considerably.

How much of the Confederation's program was saved? In the first place, the composition of the Council has the general features labor had suggested.¹⁶ The body is made up of forty-seven members, distributed as follows: (1) nine representing consumers, selected from consumers' unions, from mayors' associations and unions of towns, from parents and mutual benefit societies; (2) thirty representing labor, i.e., (a) intellectual labor and education, (b) managers or directors of industry, agriculture, commerce, transportation, the coöperative movement, and public utilities, (c) salaried employees and wage earners, i.e., civil servants, technicians,¹⁶ and wage earners, and (d) artisans; and (3) eight representing capital, i.e., (a) industrial and commercial capital, (b) real estate, and (c) banks, stock exchanges, insurance, and savings banks.¹⁷ In addition to these, there are to be other members sitting with the forty-seven in a purely consultative capacity, i.e., one substitute for each of the above¹⁸; also such experts as the Council thinks necessary to associate permanently with its work, the French representative on the governing body of the International Labor Office, etc. The ministries of labor, commerce, agriculture, finance, public works, and colonies will also each appoint two experts (Article 11). Although the government is authorized to decide in the first place what particular organizations are to be represented, the Council has the right to decide when the choice is disputed (Article 4). "When a question concerns a particular economic

¹⁶ The Confederation had from the first suggested the two categories, consumers and producers, the latter to include employers and employees in industry, agriculture, commerce, and transportation.

¹⁷ In the draft, technicians were not included as a separate category. The executive of the U.S.T.I.C.A. had a meeting on November 2, 1924, and again on November 8. A change was made which appears in the decree.

¹⁸ Article 3, Decree of January 16, 1925. *Journal officiel*, Jan. 17, 1925.

¹⁹ Each of the forty-seven may have two substitutes, but only one may sit on the Council at a time. Arrête, April 9, 1925. *Journal officiel*, April 11, 1925.

or occupational category which is not represented permanently on the Council, the Council may, for the consideration of such question, admit representatives of the category in question" (Article 12).

As to organization, the Council is attached to the office of the premier instead of any particular ministry, and the premier is *ex-officio* president of the Council; while the Council elects its own vice-presidents and bureau and makes its own rules of procedure (Articles 2 and 8). The Council also elects a permanent committee of ten from its own membership to take care of current matters between sessions, to see to the execution of its decisions, and to prepare agenda for its meetings (Article 9).¹⁹ The Council can ask to be heard by the competent committees of the chambers of Parliament, as well as by the ministers and members of the government, and may ask them to be represented at its sessions if they are not already so represented. Ministers, under-secretaries, and high commissioners of either chamber may demand the right to be represented before the Council or its permanent committee (Article 13). The Council may set up permanent organs to make investigations and publish the results (Article 14), while its reports to the government will be published in the *Journal officiel* (Article 16).

As to functions, in addition to investigations that the Council may make on its own motion, the government will submit to it "for its information," after their presentation to one or the other of the Chambers,²⁰ all government as well as private bills of an economic nature, and in connection with any law of economic interest it may require consultation of the Council concerning the administrative measures necessary to its application (Article 18). The Council is not limited to matters laid before it by the government; by a two-thirds vote it may take up any economic question whatever (Article 15), and if its recommendations to the government are carried by a two-thirds vote, the premier is obliged either to report to the Council within a month what action has been taken on the matter or to refer it back for reconsideration (Article 17).

The Confederation had asked for these provisions, if not in so many words, at least in substance. Now as to what it secured from the draft committee, but which the cabinet dropped. According to the draft, the Council was to have had financial autonomy, in that its expenses

¹⁹ The above mentioned *arrêté* provides that the premier may call special sessions of the Council, for which he alone shall determine the agenda.

²⁰ This provision "*après leur dépôt*," was not suggested by the Confederation, as it wished the Council consulted as of right on the drafting of all such bills.

were to be met from the budget of the premier rather than from that of any particular ministry, whereas the decree provided that its expenses were to be met out of the budget of the ministry of labor (Article 2). Moreover, in the draft there was a provision that the Council, by a two-thirds vote, should have the right to transform any one of its decisions into a so-called "recommendation," whereupon the premier could incorporate the matter into a government bill, take the administrative measures necessary, or transmit it to the chambers. Within the same time limit, he could refer such "recommendations" back to the Council for a second consideration, after which, if they were carried again by a two-thirds vote, he was to be obliged to take one of the three courses of action enumerated.²¹ In other words, M. Jouhaux succeeded in getting into the draft remarkable provisions that would have made the Council not only independent financially, but able by a two-thirds vote to initiate bills over the head of the cabinet. These powers M. Herriot's government was unwilling to concede.

Now as to what the Confederation wanted that M. Jouhaux was unable to get even into the draft, to say nothing of the decree. As far as legislation was concerned, the Confederation wanted the government to be obliged to consult the Council on all government bills of an economic nature before they were ever presented to Parliament²²; while a private member's bill was to be submitted to the Council for its opinion after it had passed one chamber and before it went to the other. As far as administration was concerned, the Confederation wanted the Council to have the right to be consulted on the organization and budgets of departments concerned with economic and social matters and, in addition, the power to control their activities within the provisions of administrative regulations of the government.²³ The effect of labor's full program would have been to take control of economic and social affairs from the cabinet, and to give them over to a functional body checked only by its own constituents and by the constitutional rights

²¹ Article 14 in draft constitution, *Le Tribune de Fonctionnaire*. Note that there is a precedent for this in Part XIII of the treaty of Versailles with reference to the procedure of the Labor Office.

²² Such power as the constitution of the German Reich, Article 165, provides shall inhere in the Federal Economic Council.

²³ The Confederation's program of 1923 is published in full in *L'Information Sociale*, August 14, 1924. Maxime Leroy, in *Le Progrès civique*, October 18, 1924, went further, suggesting that the Council should have a veto on the economic legislation of Parliament.

of Parliament. This is precisely what labor wanted. In this, it thought, lay the salvation of France.

Although the Confederation did not succeed in securing some of the vital features of its program, it accepted, as a first installment, what the government conceded namely, a council with merely advisory functions, independent of the government, however, in so far as it may fix its own agenda, present the results of its deliberations to the public through the *Journal officiel*, and decide in the last resort what organizations are to be invited to be represented in it. Above all, it will be independent, because its voting members are the representatives of influential economic and social groups with considerable sections of public opinion behind them. While the Council may speak with authority, it will have, as Professor Scelle says, "only such moral authority as its composition, its expert qualifications, and its disinterestedness give it."²⁴ This body should be able to furnish the government expert advice on matters which are necessarily beyond the ken of professional politicians, and should be a permanent organization of social conciliation. As M. Herriot said, in presenting the decree to the president of France, "this Council will enable the government to avoid the danger of detached and uncoördinated or fragmentary decisions."²⁵

The French government, well organized from the point of view of administration and politics, had been wanting from the point of view of economics. Each administrative department has occupied itself with its own particular task, endeavoring to satisfy a particular class or group such as agriculture; but there was lacking among the different ministries a force to coördinate their efforts in the interest of the whole. As for Parliament, there were members able to speak for agricultural, commercial, and industrial interests—which, however, they were not elected specifically to represent. In consequence, when questions concerning any one of these interests came up, its defenders were scattered among various political factions. Besides, the representatives that any one interest could command in Parliament did not correspond to its proportionate strength among the social forces of the nation. From time to time it might happen that some particular economic interest would have sufficient strength in Parliament to tip the scales in its own favor regardless of the needs of other interests. Both Parliament and the public services were constantly being subjected to pressure from this side and from that which disturbed the equilibrium. There was, in fact,

* *Revue politique et parlementaire*, Oct., 1924.

* *Journal officiel*, January 17, 1925.

no provision to secure a synthesis of the multiple interests of the nation. It was to supply this need that the Council was set up.²⁶

The friends of the Council have great hopes for it. Not the least of these is that the setting up of national economic councils in the various states of Europe may lead eventually to an International Economic Council,²⁷ a basis for which was laid, in a way, in some practices of coöperation among the Allies during the war. With this in mind, the French provided that their representative on the governing body of the International Labor Office should always be an *ex-officio* member of their National Economic Council, and that that body might include international questions of an economic character in its agenda. For years M. Jouhaux has felt that the foundation of peace could be assured only by close economic coöperation on the part of the states of Europe. At Geneva on September 12, 1924, as a member of the Temporary Mixed Commission of the Assembly of the League of Nations, he specially urged this point.²⁸ He has in mind, as part of the organization of the League, a council on a functional basis somewhat like that of the International Labor Office. At the particular urgency of the French, a preliminary commission of the League is meeting even now (May, 1926) to discuss arrangements for a world economic conference. Such is the situation, such the hope, of considerable groups in Europe.

EDITH C. BRAMHALL.

Colorado College

A Parliamentary By-election in Paris. The final results of a hotly contested by-election in Paris were given out on Sunday evening, March 28. Two communist deputies were elected to the Chamber to replace two conservatives by the narrow margin of 1,500 votes in a

²⁶ See article by Professor Georges Scelle in *Revue des Études Coopératives*, Jan.-Mar., 1925.

²⁷ This was clearly expressed in the Confederation's program in 1923. See also Maxime Leroy in *Le Progrès civique*, October 8, 1924. Spain, Portugal, and Italy have national economic councils set up by decree or statute, while the constitution of Poland (Art. 68) provides for a national economic council, as does that of Dantzig (Arts. 45 and 114), that of Jugoslavia (Art. 44), and that of the German Reich (Art. 165). The German article provides for the establishment of a council with the right to initiate bills in the Reichstag even over the head of the cabinet, as well as the right to send representatives to defend its proposals on the floor of the Reichstag. Pending the formulation of a constitution for such a council, a Provisional Economic Council was set up on May 4, 1920, whose powers and functions are practically like those of the French Council.

²⁸ *La Voix du Peuple*, March-April, 1925.

for the enforcement of decisions have not been strictly observed, and, in his opinion, the greatest weakness of compulsory arbitration "is the failure to fulfill the purpose which it professes to achieve." It is his judgment that "where industrial development has reached a highly complex stage, and where the working population is large, compulsory arbitration is impracticable. The question of efficiency in administration weighs heavily against its adoption." Mr. Fernandez's monograph deals with the Philippine revolution against Spain, and especially with the *de facto* government which existed for a short time in the Philippine Islands prior to 1900. He believes that it is unwise to draw inferences from this experience as to the capacity or incapacity of the Filipinos for governmental administration, because the "Republic" was "born of a revolution" and "lived in an atmosphere of revolution."

The Bobbs-Merrill Company has brought out the *Correspondence of John Adams and Thomas Jefferson: 1812-26* (pp. 197), selected and with comment, by Paul Wilstach. In this little book the editor skims the cream off the correspondence which passed between John Adams and Thomas Jefferson in their twilight years. Old as the calendar measures time, but young in intellectual curiosity and acquisitiveness, these gentlemen of the golden time freely traded ideas on a range of subjects that would stagger even a college professor today—religion, theology, politics, philosophy, natural science. And often they descended in a spirit that seems refreshingly modern. "While all other sciences have advanced," wrote Adams in 1813, "that of government is at a stand; little better understood, little better practised now, than three or four thousand years ago." In one of their last exchanges the eighty-three-year-old Jefferson boyishly informed his elder crony that he had just been reading "the most extraordinary of all books . . . Flourend's experiments on the functions of the nervous system in vertebrated animals." No old young man of the present time can afford not to read this book.

James Truslow Adams has concluded his story of New England from its founding to 1850 with a third volume entitled *New England in the Republic, 1776-1850* (Little, Brown and Company, pp. xiv, 438). In this latest book the author carries that section of the country through the Revolution, the adoption of the Constitution, the war of 1812, the Hartford Convention with its threat of secession, and the changing economic conditions that followed the war of 1812 down to the struggle

bibliographies. It is unquestionably a most useful and valuable work. The third volume in the series, covering the period from 1000 B.C. to the Persian Wars, has just come from the press and will be noticed in the next issue of the REVIEW.

The National Institute of Public Administration has made a distinct contribution to the field in which its chief interests lie through the publication of *A Bibliography of Public Administration* (pp. xiii, 238) by Sarah Greer, librarian of the organization. The compiler presents her material under eleven general headings: general administration, political parties and elections, civil service, public finance, public works, public utilities, public health and sanitation, public welfare, public safety, and the administration of justice and education. The Institute has also brought out as one of its "Studies in Public Administration" a monograph on *The Post-War Expansion of State Expenditures* (pp. 123) by Clarence Heer. This latter work is an analysis of the increase between 1917 and 1923 of the cost of state government in New York and contains the following conclusions: Post-war expansion of expenditures in New York was not due to waste and extravagance, nor to unwise construction projects, the too-liberal issuance of tax-free bonds, nor the expansion of state regulatory activities. Almost forty-four per cent of the aggregate increase was explained by the advance of prices and wages, and was therefore merely nominal; about sixteen per cent was due to the financing of capital outlays out of current revenues instead of bonds, and about twenty-two per cent of the increase was accounted for by compulsory expenditures in the case of highways, schools, relief to disabled veterans, and operating expenses of state institutions made necessary by the increase in population and in the numbers of automobiles, school children, defectives, and delinquents in the state. This left only eighteen per cent of the total increase which could be attributed to purposes over which the state had any real option, and almost half of this was for new educational activities such as continuation schools, Americanization work, etc. Another important item classed as optional was an increase of \$700,000 on account of the state police established since 1917.

Among recent issues in the Columbia University Studies in History, Economics and Public Law of interest to the readers of this journal, are *Governmental Methods of Adjusting Labor Disputes*, by Ting Tsz Ko (pp. 221); *The Philippine Republic*, by L. H. Fernandez (pp. 202); and *Labour and Nationalism in Ireland*, by J. D. Clarkson (pp. 502). Dr. Ko is critical of compulsory arbitration of labor disputes. Provisions

entrenched behind its political and economic frontiers, give place to something less absolute? . . . Or will the whole machinery of the new European states-system collapse under its own weight?" When he turns to the East for light, Mr. Nicholson can discern but a faint glow. He notes the constantly increasing economic and cultural penetration of India, Japan, and China by occidental industrialism. He has some interesting speculations as to the strength of Hinduism, Buddhism, Shintoism, Mohammedanism, and Christianity; and equally attractive estimates of the educational systems of the rising nations of the Orient, from Egypt east. On the other hand, the validity of any estimates based on such casual observations as can be made in the course of a year's world tour can be itself estimated from Mr. Nicholson's treatment of North America, taken from Vancouver to New York in his customary stride. "Space, speed, and a love of mechanism" he writes, "seem to me the most characteristic traits of American civilization."

(W. Y. E.)

The Macmillan Company has published the first two volumes of *The Cambridge Ancient History*, edited by J. B. Bury, S. E. Cook, and F. E. Adcock (Volume I: Egypt and Babylonia to 1580 B.C.; Volume II: The Egyptian and Hittite Empires to c. 1000 B.C., pp. xvii, 704; xxv, 751, also 4 pp. of corrections to Volume I). Like the other series of Cambridge Histories, the present tomes are composed of chapters written by various scholars, all of them Englishmen, in the present instance, save Professor Breasted. The chapters vary greatly in size, also in method, but a collaborative work must needs be judged by standards other than those employed to criticize the product of a single pen. The student of political science in general and of comparative government in particular will find much to interest him in these volumes. The discussion by H. R. Hall (Vol. I, Chapters VII and VIII) of the growth of the autocratic power of the Egyptian Pharaoh, the policy of the government, and its decline, affords luminous parallels with mediaeval developments, as one can actually follow stage by stage the genesis of feudalism in Egypt. The growth of the Babylonian city-state with its half-despotic, half-theocratic government (especially Volume I, Chapter XIV, by R. Campbell-Thompson) is extraordinarily interesting for the student of municipal government, while those who deal with international law will find much to fascinate them in the diplomacy of the Tell el-Amarna period (Volume II, Chapters V-VIII, by J. H. Breasted, and Chapter XI, by H. R. Hall). There are maps (mostly outline), and good though brief

the prefatory confession that the book "frankly represents an attempt to provide a text-book for introductory college courses" . . . "designed to orient . . . incoming students," is followed by an ill-digested mass of hortatory sociology. The present volume is a happy exception to the rule. If it is a compilation and a condensation, it is also a very happy interpretation of a wide range of carefully selected aspects of man as a social animal. It is inevitable that a few errors and many dubious conclusions should mark an encyclopedic work of this type, which starts with "the physical environment" and works up the evolutionary scale of the social heritage by way of historical considerations of the family, of economic organization, of education, of religion, and of politics. The latter aspect will naturally be of peculiar interest to political scientists. Taken as a test of the other excursions into special fields, it shows a volume of real usefulness. It gives a sketch of the historical development of political institutions, pointing its moral with American development as a conclusion. One may not entirely accept the precepts offered, but one must admit that a single chapter could hardly have done more. The selected references at the end of each chapter are entirely adequate to their purpose, perhaps too exhaustive and not selective enough. The readings given seem to the reviewer not always to be so happily chosen.

J. H. Nicholson, in *The Remaking of the Nations* (E. P. Dutton and Company, pp. x, 276), records the round-the-world tour of an Albert Kahn fellow with a gift for keen and often illuminating observations on the post-war political currents which are reshaping the world. Along with a great many generalizations and rambling anecdotes of varying degrees of interest, one gets a body of information about Oriental life that is very essential even to intelligent guess-work about such a chaos, for instance, as contemporary China. The author's method is frankly casual, and the book has the appearance of having been very loosely strung together on the chronology of his tour. He dismisses Europe with a brief recital of impressions of the two categories of states—first, those that have shrunk, with special reference to Austrian efforts at reconstruction, and second, those that have grown, including Poland and Czechoslovakia. He is equally hopeful about the *Jugendbewegung* and about Fascism, the one for Germany, the other for Italy, of course. But there is a pessimistic note at the conclusion of his survey of the new European states-system: "Can Europe afford this complex of franchises which has been set up in the name of liberty, and the duplication of services which it implies? Or must the omni-competent state,

324), will be primarily of interest to the political theorist, for the political implications of pluralism are nowhere made explicit. It is a capable analysis of the most dominant note in modern philosophy—pluralism—as to its origins and contemporary development. Before M. Wahl has done with the modern schools, the pluralistic thread seems to have escaped and become so protean as to include every attack on idealism as well as on monism. Pluralism is set in its proper context as a revolt against the dominant Neo-Hegelianism of the last century. M. Rénard points out the indebtedness of the pragmatic pluralists to Fechner, Lotze, Ménard, and Renouvier, on the continent, and to John Stuart Mill, Bain, Shadworth Hodgson, and Peirce in this country and in England. An exhaustive consideration of the modern pluralists, from James on, leaves little out of account in the connection of ideas except their economic and social contexts. M. Wahl pursues the method of tracing spiritual genealogies without much attempt to bring his world of ideas down to the shifting scene of the stage upon which it must be played.

(W. Y. E.)

The most recent contribution to the Political Science Classics, issued under the general direction of Lindsay Rogers and published by Alfred A. Knopf and Company, is a two-volume edition of William Godwin's *An Enquiry Concerning Political Justice* (pp. xlvi, 255; vii, 307), edited and arranged by Raymond A. Preston. The text which has been followed is that of the first edition, and there is an introduction of some twenty pages setting forth the main facts in Godwin's life, the bases of his political theory, and the chief objections to his ideas. The justification for the present edition lies in the fact that *Political Justice* has never been reprinted, and also in the fact that, in the words of the editor, "William Godwin is one of the men who most deserve a rereading in our time. With a reputation scarcely equalled among his contemporaries in the last decade of the eighteenth century for boldness, sagacity, and acumen, he was so completely submerged in the conservative reaction of the following decade that in 1811 Shelley, soon to become his son-in-law, learns with 'inconceivable emotion' and apparent surprise that the author of *Political Justice* is still alive." Political scientists are greatly indebted to the publishers for this and the other revised editions that are to appear.

America in Civilization, by Ralph E. Turner (Alfred A. Knopf, pp. 411), has the ambitious purpose, announced on the title page, of "introducing students to life." Ordinarily such an announcement, followed by

Latin America and the War. By PERCY ALVIN MARTIN. (Baltimore: Johns Hopkins Press. Pp. xii, 582.)

This book "consists of an expanded version of a series of lectures delivered at Johns Hopkins University in 1921 on the Albert Shaw Foundation." As such, it takes its place among ten other notable books published since 1899 under the general title of the Albert Shaw Lectures on Diplomatic History at Johns Hopkins University. The expressed purpose of the author has been "to subject to a somewhat detailed analysis the diplomatic relations of the Latin American republics as affected by the war. This aim has been admirably realized.

The diplomatic problems and policies of the twenty Latin American republics resulting from the World War were of the most varied character. For example, Chile—one of the seven countries which remained neutral throughout the war—engaged in spirited diplomatic controversies not only with Germany but with both England and France. Chile also proposed certain modifications of one of the Conventions of the Second Hague Conference, the principle of which was upheld by Great Britain and vigorously denounced by Germany. Of the five countries which went no further than to sever diplomatic relations with Germany, one of them, Uruguay, proclaimed as a principle of its future international policy that no nation of the western hemisphere, "which in defense of its own rights should find itself in a state of war with nations of other continents, will be treated as a belligerent." As regards the eight Latin American nations which declared war against Germany, it may suffice to remark that one of them—Brazil—had a "serious and exasperating" controversy with England, and that between another one, namely Cuba, and the United States there was effective "reciprocal coöperation . . . in the sending and receiving of troops for military instruction."

Professor Martin's exhaustive research extends to all phases of Latin American diplomacy connected with, and Latin American participation in, the war. In addition, it brings to light much information concerning the economic contributions of the various Latin American countries to the great struggle. The book is a notable addition to the literature of the war period.

CHARLES W. HACKETT.

University of Texas.

BRIEFER NOTICES

Pluralist Philosophies of England and America, by Jean Wahl, translated by Fred Rothwell (The Open Court Publishing Company, pp. xvi,

but one. It is difficult enough to convey to people the unity of the system of institutions which includes the Council, Assembly, Secretariat, Court, and Labor Organization; another subdivision in terms of function is bound to lead to further confusion in many minds. Furthermore, it seems to the reviewer that the functions named are rather thoroughly interwoven in practice and well distributed, in piecemeal fashion, among the various organs of the League. He submits therefore, with all due deference, that a more accurate idea of the League could be provided by a more unified mode of presentation.

Once again, however, let it be said that the volume adequately expresses both the exceptional analytical power and the devastating realism for which Professor Rappard is justly famed among all who have had the good fortune to come in contact with him.

Professor Reeves, on the other hand, directed his efforts, in the lectures delivered before the Academy of International Law at The Hague in the summer of 1924, to a quite different task. He undertakes the function of "creative juristic thinking," to employ Dean Pound's suggestive phrase, with the object of discovering or thinking out the bases, the nature, and the more important juristic implications of the international community. The measure of attention given to Grotius and his successors is incidental to the main purpose, which is not historical nor descriptive nor yet analytical so much as it is synthetic and interpretative. In place of consent, the author posits the factual relations among the states of the world, or rather the interests which these relations engender and the modes of attitude and action which these relations compel, as the basis of the international society and its law. This is a realistic critique of the consent theory with a venture into a new metaphysic at the close. It is arresting and provocative; the reviewer believes too firmly in the reality of the "fiction" of consent to regard it as sound, or to believe that it can be connected firmly with the content of admitted international legal bonds without employing the concept of consent. Would it not be more accurate, and even more hopeful in the direction of beneficial development of the law, to recognize that agreement among the states of the world, and nothing short of that, is what is needed to make the law of nations what it should be, and that the difficulty of securing international agreement can be overcome least effectively of all by directing attention away from that factor and that need in international relations?

PITMAN B. POTTER.

University of Wisconsin.

universal genius of the most extraordinary of all American statesmen. Jefferson the architect, landscape gardener, host, letter-writer, educational statesman, here commands admiration unreserved. But the Oracle of Monticello, as he rambled over his beloved estate or sat musing before his fire, undoubtedly cast back upon his long and brilliant career a glance much more critical than that of his enthusiastic English admirer.

DUMAS MALONE.

University of Virginia.

International Relations as Viewed from Geneva. By WILLIAM E. RAPPARD.
(New Haven: Yale University Press. 1925. Pp. x, 228.)

La Communauté Internationale. By JESSE S. REEVES. (Paris: Librairie Hachette. 1925. Pp. 90.)

To undertake to review a book by the familiar process of "examining" it, reading the table of contents and the conclusions, and dipping into the text here and there, and then to find the work so illuminating and compelling, in style and attitude and subject matter, that he is unescapably induced to read the whole thing word for word is an ironical penalty against which no reviewer can reasonably protest. That has been the experience of the present reviewer with Professor Rappard's lectures delivered at the Williamstown Institute of 1925.

For the style the following may serve as example: "I even suspect that the desire to disguise unpalatable facts, which animates League enthusiasts, and which not infrequently leads them even to assertions of fact held to be opportune but hardly acceptable as authentic, has done more harm than good to their cause in the minds of thoughtful men and women." Comment would be superfluous.

As for subject matter, the book is a book on the League of Nations. The title is simply inaccurate. No attempt is made to deal exhaustively with the League, of course; but still less is any attempt made to deal systematically or comprehensively with general international relations as viewed from Geneva. The book might fairly be called "The League of Nations in Real Life."

Finally, it appears to a political scientist that what was, apparently, the author's effort to be realistic and clear has led him to be slightly unrealistic and confusing. There are not three Leagues at Geneva as the chapter titles indicate (League to Execute the Peace Treaties; League to Promote International Coöperation; League to Outlaw War),

Mr. Hirst views Jefferson and the other Revolutionary patriots through the benevolent spectacles of Trevelyan and the English Whigs. He admires Jefferson because of his hostility to tyranny and places him high on the roll of honor among Whig heroes. In interpreting the American Revolution, the English writer does not attempt to make out a case for the British government, as so many able American scholars have done with no inconsiderable success in recent years. He repudiates George III and his ministers and all their works and betrays no adequate conception of their imperial problems. Praise of the Declaration of Independence he regards as superfluous; criticism of it, as vain. American scholars have been less hesitant and have criticized it as a document essentially political, and in its implications by no means fair. Mr. Hirst says that, but for George III, Jefferson would have remained an Englishman. We, however, should put a considerable amount of blame, if blame it be, on the American radicals and Jefferson himself. The flame of freedom was doubtless purer in the breast of Jefferson than in that of Samuel Adams, let us say, and we admire him greatly, but we gladly yield to Mr. Hirst the task of defending the entire justice of American revolutionary claims.

Jefferson's hostility to Hamilton has been explained much more accurately by Hirst than Oliver, but one can turn with greater profit to the scholarly and illuminating, if not entirely convincing, writings of Beard, and to the brilliant pages of Bowers' *Jefferson and Hamilton*. Mr. Hirst apparently has no fault to find with any phase of Jefferson's administration. He mentions Henry Adams, but refers only casually to the Jeffersonian assault on the judiciary and the constitutional inconsistencies which are described so fully in Adams's monumental work. He is at his best when dealing with the questions of American trade with England and Jefferson's much-mooted commercial policy, for here he speaks apparently from first-hand knowledge. He points out that there was strong English opposition to the orders in council, claims that Jefferson was fully justified in playing for time, and feels that he "successfully maintained peace with honor during a world war." In the absence of adequate investigation of these questions by critical scholars, one cannot be sure; but it is easily possible that Mr. Hirst's high praise of Jefferson's statesmanship during the trying days of the embargo will in time be considerably justified.

Mr. Hirst's sympathetic treatment of Jefferson's life in retirement merits general approval. He has read Jefferson's letters with discriminating eye and has illustrated anew the freedom-loving spirit and

volume treatises on this subject by Dillon and McQuillin. Dillon's table of cases alone covers 494 pages, listing something like 15,000 cases. At the same time the case study of this subject in law schools has been based on comparatively limited collections of cases, intended for half-year courses. Beale's collection of 680 pages has been the most important.

Professor Tooke has prepared a much more extensive collection intended for a full year course, with extracts from about four times as many cases as Beale and not more than one third of the cases in Beale's collection. This larger scope has enabled more attention to be given to many topics, including such matters as local taxation and extraordinary remedies, as well as new problems connected with home rule charters, commission government, zoning, and excess condemnation. All of this makes possible a more adequate consideration and understanding of the subject.

From the point of view of the student of political science, the question may be raised whether in such collections a place should not be found for selected constitutional and statutory provisions, which constitute the original data on which the commentary in the cases is largely based. Even the law student might be benefited by a stronger emphasis on the dependence of many decisions on the terms of the constitutions and statutes.

For a thorough comprehension of this subject, there is also need for a series of treatises, correlating the constitutional and statutory enactments with the judicial decisions in particular states. This would pave the way for a more satisfactory statement of this branch of law for the United States as a whole.

JOHN A. FAIRLIE.

University of Illinois.

Life and Letters of Thomas Jefferson. By FRANCIS W. HIRST. (New York: The Macmillan Company, 1926. Pp. xx, 588.)

If the English biographer of Hamilton, F. S. Oliver, has caricatured his hero's chief opponent, as Mr. Hirst (the first English biographer of Jefferson) asserts, the latter has idealized him. Old friends and relatives will recognize and doubtless be gratified by the flattering portrait, but critical observers will agree that the likeness is not striking. As a corrective, Mr. Hirst's book will have value in England, and perhaps even in America; and it will recall to old admirers Jefferson's abiding charm. For a critical estimate of his statecraft, however, one must go elsewhere.

from almost every conceivable point of view. The volume puts at the disposal of students of constitutional law and social legislation the most valuable symposium we have on the problem of the judicial review of police legislation under due process of law. The Adkins case is discouraging to those who desire to see a liberal development of our constitutional law. Perhaps, however, we are justified in hoping that the well-nigh unanimous disapproval voiced in the professional journals and brought together in this volume will have a salutary influence, if not upon Mr. Justice Sutherland and his colleagues of the majority, at least upon the generation of law students from whom, after the lapse of years, the Supreme Court will be recruited.

Professor Gerstenberg's volume is designed to serve as the basis of a brief course in constitutional law. It is primarily a casebook, containing 58 decisions of the Supreme Court occupying some 400 pages. These are classified into eighteen chapters of unequal length covering the outstanding topics in the field. While it would be easy to argue about the inclusion or omission of particular cases (neither child labor decision is included), on the whole those brought together provide a very serviceable body of material, comprising not only a good many of the great historic decisions which are the *sine qua non* of any such compilation, but twenty-four decisions handed down during or after 1920. The cases are prefaced by 126 pages of introductory text divided into twenty-one very brief chapters. Within such compass it has obviously been impossible for the author to do more than state in compact form some of the more obvious principles of constitutional law. For this reason the reviewer doubts whether he has actually achieved the purpose stated in the preface of providing the "minimum information to be retained by the well-informed law student." The footnotes contain references to cases, books, and articles, as well as material supplementing the text. They constitute one of the most valuable features of the book, and they would be of even greater use if indexed. The book will undoubtedly meet the needs of many teachers in the field.

ROBERT E. CUSHMAN.

Cornell University.

A Selection of Cases on the Law of Municipal Corporations. BY CHARLES W. TOOKER. (Chicago: Callaghan and Company. 1926. Pp. xliv, 1335.)

Some indication of the multitudinous complexity of the law relating to municipal corporations in the United States, as determined by judicial decisions, may be gained by a brief examination of the five and six

temporary Constitutional Controversies"; many interesting controversial problems of a constitutional nature are considered in a skillful, unbiased way. An appendix gives some lists and suggestions that are not easily accessible elsewhere to students.

The author states that he writes for both students and the general reader. His volume is particularly adapted to college study and for reference. The analytical treatment that predominates in Parts I and II brings to attention the main points for consideration, which are discussed clearly. One regrets that at times this analysis obscures the dominant idea to be developed. Occasionally all but the most careful readers will lose the final decision or conclusion, either in the proceedings of the constitutional convention or in the settlement of a problem brought before the Supreme Court. It is questionable whether what the author well calls "the vital constitution" can be fully explained in a volume which is preëminently historical.

This book is an exceedingly valuable addition to the really usable books on the study of the American Constitution.

ROSCOE LEWIS ASHLEY.

Pasadena Junior College.

The Supreme Court and Minimum Wage Legislation. COMPILED BY THE NATIONAL CONSUMERS' LEAGUE. (New York: The New Republic. 1925. Pp. xxviii, 287.)

Constitutional Law. BY CHARLES W. GERSTENBERG. (New York: Prentice-Hall, Inc. 1926. Pp. 562.)

The first of these volumes brings together seventeen articles previously printed in various professional journals, mostly legal, treating of the Supreme Court's decision in the case of *Adkins v. The Children's Hospital*, 261 U.S. 525 (1923), invalidating the District of Columbia minimum wage law. There is a brief introduction by Dean Pound discussing in its broader aspects the philosophy and technique of the courts in due process cases. The opinions of the majority and dissenting justices are printed in an appendix. The papers themselves are of varying length and character, ranging from the thorough and brilliant article by Thomas Reed Powell in the Harvard Law Review to an unsigned three-page note in the St. Louis Law Review. Only one of the seventeen writers has a good word to say for the decision of the Court or the opinion of Mr. Justice Sutherland in which it is embodied. His legal philosophy, assumptions, logic, analogies, and precedents are all attacked

attempt to group together those whose work is similar or closely related. Part XIV on independent establishments under Congress has only one chapter, on the joint committee on printing, and there is no account of the government printing office, library of congress, the capitol grounds, or the botanic garden.

The work is distinctly descriptive, and the author has not undertaken any criticism either of the organization or the quality of the administrative services. At the same time, it forms an important contribution to a knowledge of the government, and will be useful to all students of public administration.

JOHN A. FAIRLIE.

University of Illinois.

An Introduction to the Study of the American Constitution. A Study of the Formation and Development of the American Constitutional System and of the Ideals upon Which it is Based, with Illustrative Materials. By CHARLES E. MARTIN. (New York: Oxford University Press. 1926. Pp. xliii, 440.)

As suggested in the sub-title, this book is an historical treatment of the Constitution, with careful analysis of principles and cases. Part I is devoted to "The Formation of the American Constitutional System." This discusses the constitutional history of the colonies, the Revolutionary period, and the constitutional convention. Part II is on "The Development of the American Constitutional System," and discusses principles in their historical setting. The type treatment is analysis of Supreme Court cases. Each is preceded by a brief but clear statement of conditions and facts connected with the case, and consists of a rather full outline of the opinion and decision of the court, usually with dissenting opinions. Comparatively few of these cases belong to the twentieth century. Part III is on "The Spirit of the American Constitution." Still following the plan of historical treatment, the author discusses "fundamental legal rights," "principles and ideals of American constitutional government," and "American international ideals."

Dr. Martin's account is exceedingly compact, especially in Parts I and II. This treatment has the advantage of giving much material in short compass; and the book is a veritable repository of valuable material on colonial constitutional origins, proposals and criticisms in the Convention, and facts, arguments, and opinions of important constitutional cases. The author's plan of avoiding personal comment is particularly successful in the difficult chapter on "Recent and Con-

The volume is, however, an exceptionally comprehensive, thorough, and scholarly treatment of the subject of the ordinance power, and is a welcome contribution to the literature on the presidency.

CLARENCE A. BERDAHL.

University of Illinois.

Federal Departmental Organization and Practice. By GEORGE CYRUS THORPE. (Kansas City: Vernon Law Book Company, 1925. Pp. 1027.)

This is a comprehensive treatise on the organization and activities of the executive departments and the so-called independent establishments of the national government. It provides a valuable reference work for all interested in the activities of the government, and will be of special service to lawyers and others engaged in practice before the departments and independent agencies.

The book is divided into fifteen parts. The first part contains two chapters on the president and the executive departments in general. Ten parts deal with the executive departments, five of which receive one chapter each, while the treasury department is dealt with in seventeen chapters, the department of the interior in ten, the department of commerce in eleven, and the department of labor in five. Three parts deal with the independent and international establishments, and the last part with the court of claims.

In general, under each of the departments and the more important bureaus and independent establishments, there is an account of its history, activities in general, distribution of duties, organization, publications, and rules of practice.

The distribution of emphasis indicates that the work has been prepared with reference to lawyers appearing before the various offices rather than the general student. The chapters on the president and the departments of state, war, justice, post-office, and navy are comparatively brief. On the other hand, in Part III on the Treasury there are four short chapters dealing with the minor activities under the under-secretary and assistant secretaries, and, five chapters on the internal revenue service and its more important divisions. In Part IX there is one short chapter on the weather bureau, and another chapter of equal length on all the other bureaus and divisions of the department of agriculture.

There is no evident plan in the treatment of the independent establishments. They are not given in chronological order, nor is there any

Although the powers of the president in this field of legislation are thus arrived at in this deliberate manner, they are found, when worked out, to be of rather unusual scope. The limitations can only be surmised; they relate primarily to the scope of the president's discretion and are therefore quantitative in character rather than qualitative; they permit him to determine particular problems, but not policy, even though almost full discretion may be delegated to him on emergency occasions. In other words, they are based upon "practical expediency" (pp. 145-51).

For the purpose of establishing his points in this manner, Dr. Hart makes classifications so elaborate and distinctions so fine as often to bewilder and confuse instead of to clarify. Pardon is apparently not legislation because "an act of particular discretion," while amnesty is legislation because it is regarded as "a discretionary act which applies to all persons within a given class" (pp. 216-17). So he also distinguishes between material laws and material ordinances (p. 53); legislative and sub-legislative power (pp. 156, 166); laws, co-laws, and ordinances (pp. 57, 253); *Ergänzungsverordnungen* and *Ausführungsverordnungen* (p. 58), etc.

Although generally sound in his constitutional history and law, the author occasionally makes statements or assumptions with which one may be inclined to differ. When he declares that "of course they [the makers of the Constitution] did not think of the ordinance-making powers as such" (p. 111), and later that "some of these powers included, both in the minds of the framers and in practical construction under the Constitution, powers which we should term ordinance making" (p. 118), the distinction seems to the reviewer rather too fine. When the lack of any inherent powers in the president is declared to be one of the "undisputed aspects of the product of the Federal Convention of 1787" (p. 112), one feels that the author must have forgotten the so-called Wilson-Roosevelt theory of constitutional construction, and particularly the theories and practices of Roosevelt. The argument that the inclusion of an amending clause proves the belief of the makers of the Constitution in a liberal rule of construction (p. 123) seems to the reviewer quite illogical; and the assumption that the early statesmen intended their generalizations to be modified by time and circumstance (p. 124) is pleasant, but probably unsound. At any rate, the jurist upon whom has been imposed the task of "balancing of historical usage against insistent present need of change" does not seem always to have understood that intent.

and economic causes of the development of the ordinance-making power in the United States? What are the implications of the power and its potentialities of future development?" (Pp. 252-254.)

In working out his analysis of the president's ordinance power along these broad lines, the author studies each of the powers of the president in considerable detail (especially Chap. IX), and finds some kind of degree of ordinance-making in them all. Even treaties (not studied in such detail) are considered as ordinances, "for the reason that the assent of the regular legislative assembly is not required for their enactment," and because, although "material law," they are not "formal law" (pp. 218-19).

The treatment throughout is primarily legalistic, with an unduly ponderous style, and with the author's points established by elaborate argument and elaborate evidence. For example, the argument with respect to the constitutional ordinance power of the president runs about as follows: (1) Congress is granted "legislative powers," hence the president is excluded from the exercise of those powers that are legislative in character. (2) "Legislative powers" and "laws" meant to the "founding fathers" what they meant to Blackstone, Montesquieu, and Locke. (3) These philosophers used the above terms to refer to rules with respect to private persons, but not to administrative regulations. (4) The general theory and practice (at least Anglo-American) is against executive regulation of even the administrative services. (5) The denial of ordinance power to the president seems therefore to be complete. "We thus see that the denial of 'legislative' powers to the president means a denial of power to prescribe rules of either private or governmental conduct; or to prescribe a penal sanction for the same; or to supplement such rules, even when they are expressed in general terms; by the issuance of completing or enforcing ordinances; or to do any of these things by particular any more than by uniform orders. Not even can he do these things on the excuse that they are necessary to make effective his constitutional powers, or incidental to the performance thereof, or essential for the maintenance of his independence of the other coördinate departments of government." (6) But the president still may have legislative power delegated to him by Congress; and independent legislative power based upon (a) constitutional grants of power not considered strictly legislative, and (b) constitutional grants actually legislative in character but granted nevertheless because of expediency (pp. 202-214).

away from communism. "The necessary peace and tranquillity in the country," they conclude, "can only be secured by the reestablishment of a democratic system of government and administration where the rulers act on the principle of 'trust in the people qualified by prudence'."

All told, the work is an illuminating one, furnishing an excellent background for a dispassionate understanding of the political, economic, and cultural life of present-day Russia. As such, it should prove an enduring contribution, an objective study of contemporary realities.

MALBONE W. GRAHAM, JR.

University of California, Southern Branch.

The Ordinance-Making Powers of the President of the United States. By JAMES HART. Johns Hopkins University Studies in Historical and Political Science, Series XLIII, No. 3. (Baltimore: The Johns Hopkins Press. 1925. Pp. 339.)

The ordinance power of the president, long neglected or given only a cursory treatment by students of American government, has at last come into its own. Supplementing the recent admirable studies in the field of administrative legislation by Professors Fairlie, Freund, and Willoughby, the author of the volume under review has given the subject of the ordinance power an extraordinarily comprehensive and thorough treatment. Beginning with a juristic analysis of the governmental process involved in ordinance making, Dr. Hart treats in a most painstaking manner the problems of constitutional development, construction, and practice, and concludes with an analysis of the political implications and safeguards in the exercise of the power. He suggests that even more might have been added with respect to the historical setting and comparative analysis of the problems involved (p. 253).

The scope of the treatise is thus very wide, and may be best indicated in the author's own words: "The ordinance-making power is a problem for the political scientist as well as a subject of study for the jurist, the historian, and the students of comparative government, of administrative organization and technique, and of constitutional law. What is its relation to the theory of democracy as understood in America? To the principle of modern governments that legislation be by or with the consent of the popular assembly? To the increasing growth of the regulative functions of government in the present generation? To the question of the proper relation which should subsist between the legislative and executive branches of government? What are the social

baneful effects of Stolypin's anti-national policy and pseudo-agrarian reforms convincingly shown; by the eve of the war it was evident that a conflict between autocracy and democracy was inescapable. The war, by undermining the intelligentsia and accentuating racial separatism, broke the last evidences of a national consensus and made inevitable the Russian Revolution, which had become, in the words of Guchkov, "a historical necessity."

The authors are at their best in their interpretative analysis of party groups and mentality in the hour of revolution, though their wonder at the disintegration of the Conservatives and Octobrists after the March Revolution seems rather naive. As a matter of fact, with the disappearance of the autocracy, these parties had lost their reason for existence and could only be expected to efface themselves and to give way to the groups more in keeping with the atmosphere of revolution.

The chapter on the Union of Socialist Soviet Republics will be of basic interest to political scientists. The authors hold that the soviet state system was not the product of the "creative energies of the revolutionary masses of the people, but rather the outcome of haphazard experiments made in the course of administration." In their opinion, the soviet bill of rights merely enumerates rights of the state over the workers; for the soviet state, "rights" of individuals limiting soviet power do not exist. The failure of the soviet state to differentiate political functions is thoroughly in keeping with this position, for "class dictatorship is incompatible with separation of functions and should not be concerned with the object there aimed at, viz., the limitation of state power. Soviet power must be absolute, unlimited, uncontrolled." The authors challenge the truly federal character of the Union, holding that "the federative principle, in the usual sense of the term, is irreconcilable with the despotic character of the soviet state system," and believing that every trend in soviet constitutional development is toward the continuous centralization of soviet power. Such, they believe, is the import of Bolshevik national policy, though this, in the reviewer's opinion, is seriously open to question. Finally, the authors trace the development of the new bicameralism in the Union, the operation of the soviet electoral system, and the omnipotent rôle of the Communist Party.

On the economic side, the trial and abandonment of war communism are noted *in extenso*, as also the inception of the New Economic Policy and its "complete and tragic failure." It is the authors' belief that a newer economic policy is in the making, which will veer still further

progresses the foreigner will acquire greater and greater influence" (p. 269), even while agreeing with the suggestions that China should devote greater attention to the sciences (p. 106), investigate the possibilities of other than moral sanctions for social decisions (p. 147), and attempt to secure outside assistance for economic development "under such conditions as will not place her in a position of abject dependence upon the foreigner" (p. 180). An interesting statement which seems entirely justifiable is made on page 245: "It would seem, however, to be certain that the Chinese people are definitely opposed to a monarchy."

The author has not followed the accepted romanization of Chinese words, possibly out of a desire to contribute to the good cause of a new system. Nor has he furnished an index. And he has refrained from references to his own personal experiences in governmental circles in China, much to the regret, one may predict, of students of Chinese politics.

HAROLD S. QUIGLEY.

University of Minnesota.

Russia. By NICHOLAS MAKEEV AND VALENTINE O'HARA. (New York: Charles Scribner's Sons. 1925. Pp. xi, 346.)

The authors of this latest volume in the *Modern World* series have produced a remarkably fine study aiming "to enable an accurate judgment to be formed as to the essential factors in the historical growth and political condition of this vast country." Seeking, unlike the host of polemic writers, "neither to condemn nor to extenuate, but to understand," they have attempted a synthesis of the "Western" and "Asiatic" points of view regarding Russia, and have worked with a high and commendable degree of objectivity and detachment. After tracing through centuries the successive pulsations of Asiatic and Western influences in the development of the Muscovite state, they portray with careful erudition the upbuilding of the social structure, administrative machinery, and economic fabric of the Russian Empire in order to explain minutely the *raison d'être* of the bureaucratic, autocratic, "capitalistic" society of pre-war days. The end of really progressive evolution in Russia, in their opinion, came with the benevolent reforms of Alexander II; thereafter, the repression of the intelligentsia and the neglect of the peasantry left no recourse but revolution as an agency of progress where progress and adjustment to Westernism were long overdue. With painstaking care the divers forces at work in the revolution of 1905—the last warning to the autocracy—are studied, and the

far wider reading than the volume in its entirety will receive. Seldom has "the whole duty of man" with reference to things Asiatic been expounded with clearer vision. It develops in excellent, but concise, prolegomena the thesis of the whole work: "Real progress and ideal international coöperation in the future will come only through the channels of mutual confidence and respect, and of reciprocity among equals."

GEORGE MATTHEW DUTCHER.

Wesleyan University.

China: An Analysis. By FRANK J. GOODNOW. (Baltimore: Johns Hopkins Press. 1926. Pp. viii, 279.)

In this well printed and attractively bound volume President Goodnow presents, in revised form, a series of lectures delivered in 1917 at the Lowell Institute in Boston. They picture, as their author intended they should, "Chinese life against a European background." Not the least of their good qualities is their arrangement under heads that serve to distinguish clearly the various elements of a civilization—physical, economic, intellectual, philosophical, social, and political; while the concluding topics, "modern" and "future" China, point the profound changes that have occurred in China within a generation.

The reviewer has not, since his first reading of *Chinese Characteristics*, found greater pleasure in contemplating with an author the fascinating subject of China than this little book provides. The style is simple, the argument easy to follow, the interest of the author apparent on every page. Salient phases of Chinese life and thought are discussed, with emphasis upon what is old and still remains rather than upon such newer developments as the "renaissance," nationalism, trade-unionism, constitutionalism, etc., which are important but difficult as yet to reduce to generalizations. While the book makes no pretense to presenting fresh material, or to solving China's problems, the reader is assisted in many places to an understanding of variations from his own ways of life by the explanations, historical or otherwise, suggested by the author.

In a few instances the views expressed appear to be somewhat out of date. China's "vast stores" of minerals (p. 22) are no longer reckoned as so significant for her future industrial development. Already it has been demonstrated by the Yangtse valley and the Cantonese workers, as well as by the commercial clubs and the students' organizations, that the Chinese have a "capacity for greater economic coöperation," (p. 60). One may doubt whether "as . . . economic development

will prove more efficacious solvents than half-truths and heated arguments. The vast majority of Americans undoubtedly desire to deal justly and honorably with the Filipinos and to promote their welfare. It is hard to believe that there are many Americans so disloyal to our national traditions that they would not resent efforts to exploit the Filipinos as promptly as they would resent schemes to oppress or defraud our own people. The Philippine question is not one of aims but one of means. Without suggesting what spirit the Filipinos should cultivate, it certainly may be asserted that the American people need to be more perfectly informed on Philippine affairs and to acquire a greater facility for putting themselves in the place of the Filipinos in discharging their responsibility toward them.

To the advancement of these aims, with reference to all Eastern peoples, Professor Harris's sane and solid volume renders commendable contribution. He opens three avenues of approach to the problems of Asia: anthropo-geography, with just enough history to improve the perspective; description of the changing methods of European administration of Asiatic peoples; and history of international relations in Asia and relating thereto since 1840. In these matters the book is replete with facts and makes heavy demands on the reader's attention. Both for the general reader and for the student, paragraph or marginal headings would have been a grateful aid. On the other hand, the paragraphs devoted to appraisal of the various situations are written in a freer vein, with broad sympathies, but with vigor and just assessment of approval and condemnation. If the judgments of Gandhi or Sun Yat-sen or Governor-general Harrison's administration in the Philippines seem a bit severe, it is nevertheless difficult to question their justice. The same may be said of the comments on some of the dealings of England in India, or of Japan in Korea, or of weak spots in American diplomacy.

Professor Harris has essayed an enormous and exceedingly difficult task and has done his work well—distinctly better, indeed, than in his earlier volume on Africa. Though the author is a professor of diplomacy and international law, his attention throughout is directed to international relations, not to their legal aspects. On the other side, consideration is customarily given to internal affairs of the various countries only to the extent necessary to elucidate the systems of European colonial administration and the diplomatic policies. Professor Harris has produced one of the most useful single volumes on Asiatic affairs; as a summary of the recent diplomatic history of the continent, it is, at least for the moment, without a rival. The opening chapter deserves a

for the radical democracy of the Declaration of Independence. He read Horace Greeley and the Whig Almanac. He read Emerson, Thoreau, and Whitman. The death of Lovejoy, the courage of the Abolitionists, the words of Victor Hugo and Josiah Quincy had their influence upon him. He read how exiles from despotically governed countries were giving up their lives and homes for liberty, martyrs for the freedom of the race. "Lincoln saw and heard. Dreams ran deep in him. He had in him a streak of honest glory; he would live beyond his fleeting day. This want lived in him, far under in him, in the deeper blue pools of him, while he mixed with men with his horse sense, his mathematics, and an eye for the comic."

Such is Sandburg's Lincoln. No matter how extensive may be one's reading on Lincoln he should add these volumes to his list. The perennial interest in Lincoln will continue, and thousands of his countrymen will be grateful to Carl Sandburg for the absorbing volumes which he has added to the Lincoln literature.

JAMES A. WOODBURN.

Indiana University.

Europe and the East. By NORMAN DWIGHT HARRIS. (Boston: Houghton Mifflin Company. 1926. Pp. xiv, 677.)

The Conquest of the Philippines by the United States, 1898-1925. By MOORFIELD STOREY and MARCIAL P. LICHAUCO. (New York: G. P. Putnam's Sons. 1926. Pp. xi, 274.)

It not infrequently happens that a reviewer is asked to bracket two books which have little in common but their differences: such is the present case. Professor Harris has combined, in his valuable volume, diligent scholarship, careful discrimination in the selection of facts, rare sympathy for the peoples of whom he writes, and judicial impartiality. The second volume is mere propaganda.

Mr. Lichauco is fully entitled to champion the cause of his people, and Mr. Storey, as a lawyer, is entitled to act as counsel and present his brief in support of the case: both are entitled to a fair hearing. The very title, however, is offensive, and the presentation of the case constantly provokes recrimination. Technical accuracy of statements and logical validity of arguments constitute no defense for this incomplete and highly partisan exposition, which cannot fail to create false and unfortunate impressions on both sides of the Pacific. Cultivation of mutual understanding and sympathy, of generosity and patience,

trousers fastened with one suspender; or, when asked to examine a brief, replying, "Wait till I fix this plug of my gallus and I'll pitch into that like a dog at a root." There are numberless touches such as these, showing how Lincoln had dropped into the life of the people, in close touch "with their homes, kitchens, barns, fields, churches, schools, hotels, saloons, sports, their places for working, worshiping, and loafing."

Amid this life lived the Lincoln of sadness and melancholy; of love, and courtship; of earnest study; of hope, and strange ambition. "It seemed as though he planned pieces of his life to fit together. Then shapes and events stepped out of the unknown and kicked his plans into lines other than he expected. . . . When dreams came in sleep he tried to fathom their shapes and reckon out events in days to come. Beyond the walls and handles of his eyesight he felt other regions out and away in the stuff of stars and dreams."

Amid the author's rich colors and poetic interpretations one need not look for completeness nor exactness in history, for historic proportions or emphasis. Yet we find Lincoln here in his historic setting, essentially true in bold outline. The author brings into play many facts of prime importance. Not only does he search into the social background and reveal it, but he strikes off in swift dramatic language important events and movements—the Mexican War, the compromise of 1850, the repeal of the Missouri restriction, Mrs. Stowe and "Uncle Tom," the Kansas war, the great debates with Douglas, Dred Scott, John Brown, and the political campaigns. He makes too much of some of these, too little of others. In the account there are errors of detail. He uses unverified tradition; he puts the cost of the Mexican war at one fourth of the proper sum; the Fugitive Slave Law was hardly a "joke in northern Ohio"; he calls Fillmore a Free Soil candidate; he calls Prudence Crandall "Prudence Campbell"; he puts Crawfordsville, Indiana, on the Wabash River; he describes John Quincy Adams as "a sweet, lovable man"—which he was hardly considered as being even by his friends, certainly not by his opponents in congressional debate. And one wonders if Lincoln actually said "*Mr. Cheerman*" as he began his Cooper Union speech. These lapses and other minor ones are not serious defects and may be easily removed in an historical biography; but it would be hypercritical to allow such flaws to mar the effect of the luminous canvas of this poet-biographer.

Lincoln's principles, his love of law, order, and liberty, and his devotion to the Union are here set forth. For these he stood; for these, if need be, he was ready to die. No man stood more stoutly than he

authorities. Its 168 chapters, some of them only a page or two long, are without titles, one chapter beginning on the page where the other leaves off. There are no spaces at chapter endings for references, and no references are given throughout the volumes, the author indicating in his preface that his sources are "too numerous to mention." The inquiring student will wish for them, at places; but the lay reader may not miss them and may follow the moving drama the more eagerly because of the omission. There is a good index, the volumes are fine specimens of the publisher's art, and they are richly and most interestingly illustrated.

Mr. Sandburg is not an historical specialist, but he has seen life in varied forms and he grew up not far removed in space and time from the life that Lincoln knew. He writes for what he is, a story-teller, a realist, an interpreter, an artist. There is the eye of the genius to see, the power of the poet to express. He, therefore, draws vividly and in a masterly way the scenes and the life of the times which he studied. From Sandburg's pages one sees Lincoln as never before, in his homely, rough, pioneer society; and from the poet's pictures one feels that he is seeing the real Lincoln, not in all details, perhaps, but at least in the main features of his life and character. As the reader will not be led far astray from the essential truth, it may be said that the ensemble justifies all the poetic license which the author has employed.

The reader enjoys the poetic prose, whether concerning the black loam of the soil and the growing corn, or the musing, mystic, melancholy soul of Lincoln. There are vivid pictures of the prairie society of New Salem and Springfield, and of Lincoln as he appeared among his neighbors. We see the pigs roaming the streets of Springfield "sniffing for food," and the hotel bus mired in mud to the hub; we see the loneliness of Lincoln's life, and again his rollicking fun with his oafish ways; we see him as a "walking, stalking library" of never-ending stories; as an office-seeking politician, always defeated; we see him riding the circuit of twelve counties, living in hotels and court houses, staying from home six months of the year—with a hint that such prolonged absences came from henpecking and domestic infelicities.

One picture follows another. We see Lincoln sitting in a company of men with his boots off, "to give his feet a chance to breathe," as he said; or at the table neglecting to use the butter knife, much to the annoyance of Mrs. Lincoln; or, in place of the servant girl, answering the ring of the front door bell in his shirt sleeves. We see him on a neighborly visit in a pair of loose slippers, wearing a faded pair of

portant a relationship. He commended himself to the President not only because of his political experience, his sound common sense, and his sympathy, but because he never asked anything for himself and would not accept it when it was offered. He always kept himself in the background and was willing that others should have the credit which really belonged to him.

For these and other reasons, Colonel House was particularly well qualified to play the unique rôle of unofficial confidential adviser. He possessed an almost uncanny ability to foretell effects, and, as events proved, his judgments were uniformly sound. He had ideals in respect to the public service which were lacking among some of the members of his own party. In advising the President in the matter of appointments he urged him scrupulously to respect the civil service law, and he even advised him to retain in the diplomatic service Republican incumbents who were especially qualified by training and experience. On the whole, the remark of Viscount Grey in his *My Twenty-five Years* that House "longed to get good accomplished and was content that others should have the credit," appears to be a not unmerited evaluation of the motive and character of the man.

Altogether, the story of his relations with President Wilson and the extraordinary rôle which he played in the government of the country during the four years covered by *The Intimate Papers* constitutes a remarkable chapter of what may be called the "inside" political history of the United States, and the reading is as fascinating as the events which it narrates are remarkable.

J. W. GARNER.

University of Illinois.

Abraham Lincoln: The Prairie Years. By CARL SANDBURG. (New York: Harcourt, Brace and Company. 1926. Two volumes. Pp. xvi, 480; vi, 482.)

These two volumes of nearly a thousand pages deal with the life of Lincoln from his ancestry and birth to the time of his inauguration as president.

One may read many biographies of Lincoln, but he will probably never read a more interesting one than this. There is interest on every page. There is in it so much of poetry and imagination, so much of tradition mingled with fact, that some may doubt whether it be biography at all. It is clearly not within the canons of historical writing. There are no footnotes. No sources are indicated, no citations to

feeling of admiration and affection. "No human agency," he said in a letter of August 5, 1914, "could make me doubt your friendship and affection. That my life is devoted entirely to your interests, I believe you know and I never cease from trying to serve you." "Call me when you need me," he said on another occasion, "for I am always under orders." It was not unnatural that on occasions House's professions of admiration should verge upon flattery, as when he told the President that his *Lusitania* note had made him not only the first citizen of the United States but of the World, and when, shortly after the outbreak of the war, he wrote the President: "The world expects you to play the big part in this tragedy, and so indeed you will, for God has given you the power to see things as they are." Nevertheless, House did not hesitate to criticize the President at times. He expressed surprise at the casual way in which the cabinet was chosen. Houston was never notified of his appointment and got his information only from the newspapers. He criticized the president for his want of interest in the matter of national preparedness, his lack of appreciation of the importance of foreign affairs, his use of language, in certain addresses on foreign affairs, which caused needless irritation among the allied powers, his disposition to dodge trouble instead of facing it, and his intense prejudices against people. "He likes a few," said House, "and is very loyal to them, but his prejudices are many and often unjust." He also found that the President's own characterization of himself as "a man with a one-track mind" was all too true, since he did not seem able to carry along more than one idea at a time. But House entertained a high admiration for Wilson's supreme gifts as a leader, for the analytical qualities of his mind, and for his unexcelled facility of expression; and, as appears from House's preface to *The Intimate Papers*, he still holds this opinion. "Wilson's chief defect," he says, "as I see him in retrospect, was temperamental." In spite of his prejudices which often clouded his judgments, "he was intelligent, honest, and courageous." And he adds: "Happy the nation fortunate enough to have a Woodrow Wilson to lead it through dark and tempestuous days."

Wilson was widely criticized for relying so largely upon the advice of a single person, and he a private individual, instead of depending more upon his cabinet, which contained his official advisers and had a right to be consulted. This criticism was voiced, indeed, by some of his own friends, such as Walter Page. Whatever its merits, it was fortunate that the President's "adviser," "assistant," "partner" or "alter ego"—call him what we may—was so well qualified for so delicate and im-

warn Page against what appeared to the President to be a pro-British point of view.

The character and amount of work which thus devolved upon House suggests the advisability, perhaps, of having a "political" member of the cabinet without portfolio. In fact, House was such, even though he had no formal appointment or legal status. He carried on an extensive correspondence with certain of the ambassadors in Europe, especially Gerard and Walter Page. Through him they were kept in touch with what was going on in America and the state of public opinion. The letters which House received from the ambassadors were shown to the President and in this way he was kept informed of events and public opinion in Europe.

House played an important part in formulating the legislative measures which constituted the outstanding domestic achievements of the Wilson administration; he helped to get them through Congress, and determined in large measure the appointments to the new posts which were thus created—especially the appointments to the Federal Reserve Board. At the very beginning of the administration many applicants for offices addressed their appeals to him. When it became more and more difficult for them to reach Wilson directly, because of his isolation and his decision not to discuss personally with candidates their applications, the pressure upon House became tremendous. On one occasion, after his return from an absence of ten days in Washington, he said: "I literally had to wade through my mail to get to my desk. Every office-seeker and every crank in the U. S. is on my trail and I get photographs from all sorts and conditions of people who think in this way they can impress their identity more securely upon me."

A frequent entry in the diary following a visit of the Colonel to the White House was: "After dinner (or lunch) the President and I went into executive session." These "sessions" often lasted for long hours during which appointments, policies, the contents of presidential addresses, diplomatic notes, and other questions were discussed. No other person, not even the most trusted members of the official cabinet, was taken into the confidence of the President to anything like the same degree. The President not only confided in House as in no other person, but he entertained for him a feeling of deep affection which was strikingly shown in the way in which he addressed and concluded his letters to the Colonel.

House, who from first to last addressed him as "Dear Governor" and signed his letters "affectionately yours," entertained for him the same

to Russia. He also suggested that Bryan should be consulted in the choice of the cabinet. Wilson adopted the suggestion, with a reservation, and commissioned House to go to Miami and talk over fully with the Commoner the tentative decisions reached; but it was to be merely for the latter's information and not a request for his advice.

It is hardly necessary to say that House himself could have had any place in the Cabinet which he wished had he been willing to accept it. But he had never held an office, and it was inconsistent with his principles to do so. He preferred to play the game from the outside—to choose others, but to be free of official responsibility himself. "Had I gone into the cabinet," he said, "I could not have lasted eight weeks." When Bryan later resigned, House was suggested as his successor, but he dismissed the idea, saying that under no circumstances would he accept it even if the President desired it.

But while House was not officially a member of the cabinet, he was in fact an integral and important part of the administration. He maintained intimate relations with the members of the cabinet; when he was in Washington he called on them or they sought him out; when in New York they frequently telephoned or wrote him; he carried on a constant correspondence with them when abroad; he discussed with them the problems of their respective departments and frequently offered suggestions as to the policies which they should adopt; they sought his advice and sometimes the use of his good offices with the President. For example, one of them asked his opinion regarding the expediency of cabinet members making public speeches without the approval of the President; whereupon House discussed the matter with the President and communicated to him the President's opinion regarding it. Another member requested him to ascertain whether the President would object to his giving out to the press his annual report before it went to the President, and the latter's decision was duly obtained and communicated to him. Various members frequently sought his advice regarding appointments and sometimes requested him to "look over" particular candidates and report the results of his inquiries. Occasionally they carried to him their complaints against the policies of the President—for example, the discontinuance of the Friday cabinet meetings—and sometimes he intervened with the President (with success in this particular case) to have the cause of the complaint removed. The President, in turn, sometimes charged him with the delicate task of making known to a particular cabinet member or an ambassador his displeasure at certain conduct. Thus he was requested to caution and

due course by two others which will bring the story down to the end of the peace conference.

The earlier chapters deal with House's early life in Texas. There he demonstrated his success as a political organizer, as a director of political campaigns and a maker of governors. From this smaller field of operations in which he had scored a succession of triumphs he set forth in 1910 to conquer new worlds, his particular objective being to find a suitable Democratic candidate for the presidency in 1912. He went first to New York, where he discussed with various leaders the more promising availabilities and after eliminating one after another of them he turned to Governor Wilson of New Jersey, whom he met for the first time in November, 1911, at the Hotel Gotham.

The personal amiability of the governor rather than his intellectual qualities or political ideas impressed him most. Describing his impression in a letter written the following day to his brother-in-law, he said, "Wilson is not the biggest man I have ever met, but he is one of the pleasantest and I would rather play with him than any prospective candidate I have seen . . . never before have I found both the man and the opportunity." This was the beginning of what Sir Horace Plunkett later called "the strangest and most fruitful personal alliance in human history." They arranged for future meetings, and during the autumn and winter, whenever Governor Wilson came to New York, they met at the Gotham.

Having found the man he thought best qualified to lead the Democratic party to victory, House set actively about securing his nomination. He proceeded at once to clinch the Texas delegation to the national convention; he started a movement to capture the delegations of other states; he advised Wilson as to the character of his speeches; when his candidate emerged triumphant from the convention he threw himself into the campaign to bring about his election; he played the rôle of a general, organizing the forces, planning the lines of attack, and issuing directions to those in command. Wilson elected, House was called in to assist in choosing the cabinet. Apparently, no one else was consulted. There were long discussions of availabilities; proposed names were eliminated for one reason or another; whenever an agreement was reached on a particular candidate House was requested to sound him out and conduct the negotiations. It was the same with the important diplomatic appointments. House advised that Bryan be offered the appointment of secretary of state, but that it should be intimated to him that it would be a great service if he would consent to go on a mission

BOOK REVIEWS

EDITED BY A. C. HANFORD

Harvard University

The Intimate Papers of Colonel House. Arranged as a Narrative by CHARLES SEYMOUR. (Boston: Houghton Mifflin Company. 1926. 2 vols. Pp. xxi, 471; xi, 508.)

These two volumes contain the story of what was without doubt the most remarkable rôle ever played by a private individual in American political life. The actor who played it might have imitated the example of others and recorded the story in a volume or volumes of conventional "Memoirs" or "Reminiscences" written toward the end of his life, but this Colonel House declined to do, preferring to let his papers as originally written tell their own story. That they might be made to do it the better, he entrusted the task of selection, arrangement, and editing to a historical scholar who was at the same time a personal friend. Professor Seymour has executed the task in an admirable manner. He has done much more than sift and arrange; he has in his own words explained, interpreted, and evaluated motives and events with which *The Intimate Papers* deal.

The contents of the two volumes embrace, in the main, letters or extracts from letters selected from an enormous mass of Colonel House's correspondence with Mr. Wilson from October, 1911, to April, 1917; letters to and from many European statesmen, American ambassadors in European countries, cabinet officers, and other prominent political personalities; and extracts from his own diary, which he began to keep in September, 1912, and continued for a period of seven years. Unfortunately, the President's literary legatee having declined to give permission for the publication of his letters, none of them have been included in *The Intimate Papers*. Professor Seymour, however, gives a list of several hundred letters written by President Wilson to Colonel House, which he says he has utilized and from some of which he has quoted or the sense of which he has translated. Until these letters are published, however, the whole story of Colonel House's relations with the President and the full rôle which he played can never be known. The reviewer is informed that the present volumes will be followed in

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- Frank J. Laube*; B.L., Wisconsin, 1899; M.A., Wisconsin, 1913. A Study of the Number and Type of Elective Public Offices in the United States. *Chicago*.
- Edward B. Logan*; Ph.B., Chicago, 1922. Central State Control and Supervision of the Conduct of Elections. *Pennsylvania*.
- George H. McCaffrey*; A.B., Harvard, 1912; A.M., *ibid.*, 1913. The Projected Consolidation of Cities and Towns in the Boston Metropolitan District. *Harvard*.
- R. C. McDanel*; A.B., Richmond, 1916; A.M., Columbia, 1925. The Virginia Constitutional Convention of 1901-02. *Johns Hopkins*.
- W. W. Moss*; A.B., Richmond, 1924; M.A., Columbia, 1926. Limitation of Debate in Legislative Assemblies. *Columbia*.
- Oliver Edward Norton*; A.B., College of the Pacific, 1921. The Direct Primary in California. *Stanford*.
- Julius Prufers*; A.B., Roanoke, 1920; M.A., *ibid.*, 1921. Study of Non-Voting in Virginia. *Chicago*.
- John T. Salter*; A.B., Oberlin, 1921. The Operation of the Non-Partisan Ballot in Pennsylvania Cities of the Third Class. *Pennsylvania*.
- G. B. Simmons*; A.B., Florida, 1922. The Government and Administration of Florida. *Johns Hopkins*.
- G. W. Spicer*; A.B., Randolph-Macon, 1920. The Government and Administration of Alaska. *Johns Hopkins*.

- Marie O'Donnell*; A.B., Trinity, 1919; A.M., Columbia, 1921. The Senate Committee on Foreign Relations. *Columbia*.
- Roy V. Peel*; A.B., Augustana, 1920; A.M., Chicago, 1923. James G. Blaine as a Political Leader. *Chicago*.
- Ifor Powell*; B.A., University of Wales, 1923. Local Government in the Philippines during the American Régime. *Michigan*.
- Roland R. Riggs*; U. S. Naval Academy, 1904; A.M., Columbia, 1913; LL.B., *ibid.*, 1917. The Treaty-making Power under the United States Constitution. *Johns Hopkins*.
- Pearl Robertson*; Ph.B., Chicago 1923; M.A., *ibid.*, 1925. Grover Cleveland as a Political Leader. *Chicago*.
- Earl R. Sikes*; A.B., Trinity, 1915; M.A., Pennsylvania, 1918. Federal and State Corrupt Practice Legislation. *Cornell*.
- Marietta Stevenson*; B.E., Illinois State Normal, 1916; M.A., Chicago, 1920. William Jennings Bryan as a Political Leader. *Chicago*.
- Axel M. Tollefson*; Red Wing Seminary; A.M., North Dakota; LL.B., Minnesota, 1921. Judicial Review of Administrative Decisions by the Federal Courts. *Minnesota*.
- Roger John Traynor*; A.B., California, 1923; M.A., *ibid.*, 1924; The Amending System of the United States Constitution. *California*.
- Harry W. Voltmer*; B.A., Iowa, 1923. M.A., *ibid.*, 1925. The Statecraft of James Madison. *Iowa*.
- Elizabeth Weber*; A.B., George Washington, 1915. Induction into Citizenship. *Chicago*.
- Charles F. West*, Ohio Wesleyan, 1918; A.M., *ibid.*, 1919. The Political Power of the President. *Harvard*.

STATE AND LOCAL GOVERNMENT IN THE UNITED STATES

- Arthur Sidney Beardsley*; B.L., University of Washington, 1918; B.S., *ibid.*, 1924, M.A., *ibid.*, 1925. County Government in the State of Washington. *University of Washington*.
- Herman Boyle*; A.B., Central, 1912. Municipal Reporting in Chicago. *Chicago*.
- Daniel B. Carroll*; A.B., Illinois, 1915. The Unicameral Legislature in Vermont. *Wisconsin*.
- Herbert C. Cook*; B.A., State Teachers College, Cedar Falls, Iowa, 1922; M.A., Iowa, 1925. The Administrative Functions of the Department of Public Instruction in Iowa. *Iowa*.

- Esther Waneta Cole*; A.B., Peru State Teachers College, Peru, Nebraska, 1924; A.M., Nebraska, 1925. The American Indian Problem. *Brookings*.
- J. P. Comer*; A.B., Trinity, 1907; A.M., Columbia, 1915; The Legislative Functions of Federal Administrative Authorities. *Columbia*.
- Royden Dangerfield*; B.S., Brigham Young, 1925. The Senate's Influence on the Foreign Relations of the United States. *Chicago*.
- Marshall E. Dimock*; A.B., Pomona, 1925. The Inquisitorial Powers of Congress. *Johns Hopkins*.
- C. W. Fornoff*; A.B., Illinois, 1922; A.M., Illinois, 1923. The Political Ideas of James Madison. *Illinois*.
- George Barnes Galloway*; B.A., Wesleyan, 1920; A.M., Washington University, 1924. Congressional Committees of Investigation. *Brookings*.
- P. D. Hasbrouck*; A.B., Hamilton, 1918; M.A., *ibid.*, 1924. Parliamentary Methods since Speaker Cannon. *Columbia*.
- W. B. Hazleton*; A.B., 1921, Macalester. The Subjection of Political Parties to National Control. *George Washington*.
- E. A. Helms*; A.B., Illinois, 1922; A.M., Illinois, 1923. The Eighteenth Amendment. *Illinois*.
- W. S. Holt*; A.B., Cornell University, 1920; A.M., George Washington, 1923. Treaties Defeated by the Senate. *Johns Hopkins*.
- John C. Jones*; A.B., Transylvania, 1911. The Tendency Towards Centralization of the American Federal Government. *Brookings*.
- Joseph T. Law*; A.B., Drury, 1915; A.M., Wisconsin, 1921. Constitutional Limitations upon the Delegation of Legislative Power. *Wisconsin*.
- Paul Lewinson*; B.Litt., Columbia, 1922. Suffrage Discriminations on the Basis of Race in the United States. *Brookings*.
- Kalfred Dip Lum*; A.B., University of Hawaii, 1922; A.M., Columbia, 1923. The Evaluation of Government in Hawaii. *New York University*.
- P. S. Lum*; A.B., Princeton, 1923. The Administration of the United States War Department. *Johns Hopkins*.
- Ada McCowan*; A.B., Reed, 1917; A.M., Columbia, 1921. Conference Committees in Congress. *Columbia*.
- James D. McGill*; A.B., Oberlin, 1920; M.A., *ibid.*, 1922. Religious Liberty and Equality in American Constitutional Law. *Cornell*.
- F. P. Myers*; A.B., Bridgewater, 1913; A.M., Virginia, 1920; LL.B., National University, 1922. Legislative Control of Foreign Relations. *Johns Hopkins*.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN COLLEGES AND UNIVERSITIES¹

COMPILED BY PITMAN B. POTTER

University of Wisconsin

POLITICAL PHILOSOPHY

Natalye Adelma Colfelt; A.B., Vassar, 1921; A.M., Stanford, 1923. The Political Philosophy of the Progressive Party of 1912. *Stanford*.

Clyde W. Hart; A.B., Milliken, 1915; Political Theory in American Literature. *Chicago*.

John Gilbert Heinberg; A.B., Washington University, 1923; A.M., *ibid.*, 1924. The History and Theory of Majority Rule. *Brookings*.

Helen D. Hill; A.B., Chicago, 1921. Anti-Stateist Theory in Recent Times. *Chicago*.

Maud Jensen; Ph.B., Chicago, 1912; A.M., Columbia, 1920. The Social and Political Philosophy of Justice Stephen J. Field. *Brookings*.

Mary Z. Johnson; Ph.B., Chicago, 1924. Development of Democratic Theory since 1848. *Chicago*.

Charles R. Layton; A.B., Otterbein, 1913; M.A., Michigan, 1917. The Political Thought and Influence of John Bright. *Michigan*.

Madge M. McKinney; A.B., Western Reserve, 1916; M.S., *ibid.*, 1919. An Analysis of the Traits of Citizenship. *Chicago*.

UNITED STATES GOVERNMENT, POLITICS, AND CONSTITUTIONAL LAW

Harold Alderfer; A.B., Bluffton, 1924; M.A., Syracuse, 1926. The Personality of Warren G. Harding. *Syracuse*.

M. E. Brake; Ph.B., Chicago, 1920; J.D., Chicago, 1920. Criminal Law Enforcement by Injunction under Federal Legislation. *Chicago*.

Earl Cleveland Campbell; A.B., California, 1923; M.A., *ibid.*, 1924. The Relations of the Cabinet Members with Congress. *California*.

¹ Similar lists have been printed in the REVIEW as follows: IV, 420 (1910); V, 456 (1911); VI, 464 (1912); VII, 689 (1913); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925). It is planned hereafter to print an up-to-date list in every August number of the REVIEW.

of the policy of the United States on the matters treated; and an attempt was made to compare that policy with the rules of international law in an endeavor to ascertain how far the treaty embodied principles of international law and in what respects it went beyond those principles. Where it was found that the treaty varied from the rules of international law, the desirability of the extension was discussed.

The first day was devoted to a consideration of Articles XVIII, XIX, and XXVII dealing with certain phases of consular privileges and immunities, and a short paper by Professor Irvin Stewart, of the University of Texas, opened the way for discussion of the articles. The provisions exciting the greatest amount of interest were those of Article XVIII exempting consuls from arrest for misdemeanors; of Article XIX definitely limiting the scope of the taxation privilege granted and making specific provision to cover income taxation; and of Article XXVII extending the privilege of free entry to cover the personal effects of consuls introduced at any time during the incumbency of the consular officer.

Three other articles, i.e., XX, XXIII, and XXVI, were taken up on the second day. Several departures from previous practice were noted in Article XX; and there was a rather extended discussion of cases which might possibly arise under the second paragraph of that article, especially under the provisions relating to archives and to the use of the consulate as a place of asylum. Provisions of Article XXIII designed to eliminate some of the vagueness to be found in earlier treaties relating to the problem of consular jurisdiction in cases arising within the territorial waters of one of the contracting states were made the subject of an interesting discussion. While Article XXVI was only touched upon, because of lack of time for a fuller consideration, the desirability of some such provision was appreciated.

On the last day Articles I and VII were taken up. Most of the sitting was devoted to a consideration of the problem of national treatment of shipping and to the provisions of Article VII and of the Senate reservations in that connection. The introduction of the unconditional most-favored-nation clause into the policy of the United States likewise provoked discussion.

During the course of the sessions a few suggestions dealing both with content and with form were made; but in the main it was felt that the treaty represents a substantial and desirable advance upon earlier treaties in the fields which were discussed.

IRVIN STEWART, *Secretary.*

University of Texas.

Munroe Smith was a rare teacher. With a profound knowledge of his subjects, Roman law and legal history, he had the gift of infusing into his presentation system and orderliness, interest and style, with at all times a high appreciation of the relativity of values. Especially did he impart inspiration to and derive satisfaction from the student of unusual abilities. He was also a rare editor. To him was due in large part the fame of the *Political Science Quarterly*, the first periodical of its kind in the world. He was its first editor, appointed in 1886; and through a period of nearly thirty years thereafter, with one or two brief intervals, he continued to give prodigally of his time and his remarkable literary talents to the laborious task of editing the *Quarterly* and expanding its usefulness.

He was likewise a writer of rare distinction. No doubt his long editorial service was responsible in part for the matchless precision of his lucid English. His *Bismarck and German Unity* (1898) and his *Militarism and Statecraft* (1917) are his two outstanding volumes; but scattered through encyclopedias and scientific periodicals are a large number of articles that attest the versatility of his learning, the catholicity of his interests, the soundness of his judgments, the depths of his scholarship, and the purity and charm of his diction.

Finally, Munroe Smith was a rare personality. A scholar to his fingertips, and innately modest and reserved, he nevertheless enjoyed and contributed to the enjoyment of the society of men. "With wit well natured and with books well bred," he was a delightful companion. His deep affections and strong emotions were always in the leash of his strong and disciplined intellect. In manner one of "the old school," he was in mind youthful, progressive, adaptable. He leaves the stamp of his thought and his personality upon the great university which he helped to create and shape, upon the minds and hearts of a host of colleagues, students, and friends, and upon the broad world of letters and of scholarship.

H. L. McB.

Round Table on International Law.¹ The round table on international law was attended by about thirty persons and devoted its time to a study of certain provisions of the recent treaty of friendship, commerce, and consular rights between the United States and Germany. It was felt that this treaty embodied the latest considered statement

¹ This report of the round table conference on international law held at the New York meeting, and led by Professor C. C. Hyda, was received too late to be printed in the May number with the reports of other round tables.

an Analysis of the Left-Wing Movement in the Needle Trades. 6. Dr. Heinrich Klüver, instructor in psychology, University of Minnesota; project, The Eidetic Disposition in Different Racial and National Groups. 7. Dr. Austin F. Macdonald, instructor in political science, University of Pennsylvania; project, A Comprehensive Field Study of the Grants Made by the Federal Government to the States. 8. Dr. Robert Redfield, instructor in social science, University of Colorado; project, An Ethnological and Sociological Study of a Typical Mexican Village Community as a Contribution to the Background of the Mexican Immigrant to the United States. 9. Mr. Geroid T. Robinson, instructor in history, Columbia University; project, The Peasant Movement in the First Phase of the Russian Revolution, March to November, 1917. 10. Mr. Herbert W. Schneider, assistant professor of philosophy, Columbia University; project, A Study of the Growth of the Political Theories of the Fascisti in Italy, with special reference to their Motivation in Particular Social Groups and Problems. 11. Dr. Walter R. Sharp, assistant professor of political science, University of Wisconsin; project, A Study of Public Personnel Administration in Continental Europe, with special reference to France and Germany. 12. Mr. Carroll H. Woody, graduate student, University of Chicago; project, European Nominating Methods. In addition to these twelve new appointments, there are four reappointments for one year, i.e., Mr. Charles W. Everett, Dr. Marcus L. Hansen, Dr. Sterling D. Spero, and Dr. Dorothy S. Thomas, and four reappointments for less than one year, i.e., Dr. Luther L. Bernard, Dr. Harold S. Gosnell, Dr. Joseph P. Harris, and Mr. Simon S. Kuznets.

Professor Munroe Smith, president of the American Political Science Association in 1917, died in New York City on April 13. Born in 1854 in Brooklyn, he was graduated from Amherst College in 1874, from the Columbia Law School in 1877, and from the University of Göttingen, with the J.U.D. degree, in 1880. Immediately thereafter he was appointed instructor in history at Columbia and became one of the small group who under the leadership of John W. Burgess established and developed the first school of political science in the United States. Adjunct professor of history from 1883 to 1891, professor of Roman law and comparative jurisprudence from 1891 to 1922, he was in the latter year appointed to the newly created Bryce professorship of European legal history, which post he held until his retirement in 1924. The honorary degree of doctor of laws was conferred upon him by Columbia University in 1894 and by Amherst College in 1916, and the degree of doctor of jurisprudence by the University of Louvain in 1909.

government. Following the procedure of other years, there were five round-table conferences and three general public meetings. The Conference dealt with systems of local self-government, problems of local self-government, the commonwealth and local self-government, the county and local self-government, and the municipality and local self-government. A thirty-two page pamphlet was prepared for the convenience of those who attended, and in it the work of the Conference was outlined in detail. These conferences have been largely attended by graduate students and members of the faculty of the university; public officials and civic leaders throughout the state; teachers of political science from neighboring colleges and universities; and a number of political scientists from various parts of the country have been present as invited guests of the university. Among persons who attended the Conference this summer were: Dr. Charles A. Beard, president of the American Political Science Association, who gave the principal address on the subject "Toleration in Politics"; Professor A. R. Hatton, member of the city council of Cleveland, Ohio; Professor A. B. Hall, president-elect of the University of Oregon; Professor Frederic A. Ogg, managing editor of the *AMERICAN POLITICAL SCIENCE REVIEW*; Dean Herman G. James, of the University of Nebraska; Professor John A. Fairlie, of the University of Illinois; Miss May E. Francis, state superintendent of public instruction in Iowa; Judge Martin J. Wade, of the federal bench; several city managers; and numerous officers of civic organizations.

The Social Science Research Council announces the appointment of twenty persons as research fellows of the Council for the coming year. New appointments are: 1. Dr. Carter Goodrich, assistant professor of economics, University of Michigan; project, A Comparative and Genetic Study of the Australian Labor Movement. 2. Dr. Martha Guernsey, instructor in psychology, University of Michigan; project, A Study of Human Behavior (particularly in children) in the Light of Gestalt Principles, with special reference to Spatial Perception, "Insight," and Instinct as Factors in Visual-Motor Problems and Situations. 3. Mr. Lawrence R. Guild, professor of economics, Tusculum College; project, Labor Conditions in Places of Less than 10,000 in Ohio. 4. Mr. Norman E. Himes, instructor in economics and sociology, Cornell College; project, History of the Birth Control Movement in England, with special reference to the Development and Work of the Clinics. 5. Dr. Sylvia Kopald, teacher, research worker, and journalist; project, An Approach to the Problem of Democracy and Leadership in Trade Unions through

The third institute under the Norman Wait Harris Memorial Foundation at the University of Chicago was devoted this year to Mexico. Its sessions extended from June 29 to July 16 and included lectures and round tables as in the past. The lecturers were Hon. Moises Saenz, sub-secretary of the department of education of Mexico; Hon. Manuel Gamio, former director of the bureau of anthropology and sub-secretary of the department of education of Mexico; Hon. José Vasconcelos, former minister of education of Mexico; and Professor Herbert I. Priestley, of the University of California. The latter made a special trip to Mexico under the auspices of the Institute in May and June. Representatives of several departments of the Mexican and American governments and of business concerns interested in Mexico participated in the round table conferences, which were confined to persons specially informed on Mexican affairs. In connection with the Institute the departments of political science, history, economics, and anthropology offered special courses on Mexican affairs. Information concerning the Institute can be obtained from Professor Quincy Wright, University of Chicago.

The American Historical Association is making a general appeal to the public for coöperation in the raising of an endowment fund of one million dollars. The campaign is in the hands of a large and representative committee, with Hon. Albert J. Beveridge as chairman and Professor Solon J. Buck, of the University of Minnesota, as executive secretary, and with headquarters at 110 Library, Columbia University, New York City. The object of the projected fund is to enable the Association to develop its present activities more adequately, and especially to make possible the fostering of research and publication in connection with such great subjects as the history of international relations, immigration and sectionalism, the historical backgrounds of legal, economic, and social problems, and the European backgrounds of American institutions and life. Full success of the appeal is anticipated; in any event, the degree in which the effort meets with favorable response will afford a significant measure of the readiness of people in these days to support the interests of the humanistic and social sciences.

The fourth Commonwealth Conference, under the auspices of the State University of Iowa, was held at Iowa City on June 28-30. The first Conference in this series, in the summer of 1928, dealt with citizenship; the second, with problems of the electorate; the third, with costs of government; and the one this summer was devoted to local self-

constituency which contained nearly 200,000 registered electors. This election is important not only because of the wide comment which it caused but also because it illustrates many of the working forces in present-day French politics.

The procedure followed in French by-elections is practically the same as that used for the election of all the deputies prior to 1919. If no candidate receives an absolute majority at the first balloting, there is a second balloting at which the candidate with the highest plurality is declared elected.²⁹ At the first balloting in the Paris election, held on March 14, many rival lists were presented. The most important were the following: the list of the conservatives (*union républicaine sociale et nationale*),³⁰ the list of the communists,³¹ the list of the socialists,³² and the list of the *petit cartel* (one radical-socialist and one independent socialist). Contrary to the situation at the general elections in 1924, no *cartel des gauches* was formed, the socialists refusing to coöperate with the radicals.

The constituency in which the by-election was held comprised the heart of the Paris business district, together with an outlying portion of the city populated largely by working-class people. The contrasts presented in the district were reflected in the results of the first balloting. The candidates of the extreme right and those of the extreme left ran far ahead of the others, but no list obtained an absolute majority. As compared with the 1924 election results, there was a tremendous falling off in the popular strength of the parties composed largely of *petit bourgeoisie*.³³ Although the proportion of abstentions was considerable, it was no larger than at a similar by-election in the same sector in 1921.³⁴

Immediately following the first balloting the various groups whose candidates had made a poor showing met and decided upon their action at the second balloting. The socialists withdrew their candidates in favor of the communists. The regular organization of the radical-

²⁹ An excellent summary of French election procedure may be found in Joseph-Barthelemy and Duez, *Traité élémentaire de droit constitutionnel* (Paris, 1926).

³⁰ Formerly called the *bloc national*. See *Europa*, 1926 (London, 1926) and Canière and Bourgin, *Manuel des partis politiques en France* (Paris, 1924).

³¹ *Section française de l'internationale communiste* (S. F. I. C.).

³² *Section française de l'internationale ouvrière* (S. F. I. O.).

³³ The Radical-Socialist party (Herriot, Caillaux, Clemenceau) and the Republican Socialist party (Briand and Painlevé).

³⁴ Few of the Paris journals seemed to recognize this and interpreted the large proportion of abstentions as a new indication of popular discontent with Parliament. See *Le Temps*, March 26, 1926, "L'Abstention Nefaste."

socialists made the same decision, but some of the more conservatively minded radical-socialists refused to follow this lead and put up a list of their own.³⁵

The course of the campaign could be followed very well by consulting the principal organs of combat, *L'Echo de Paris* (conservative) and *L'Humanité* (communist). The election was not fought directly over the policies of the government of the day, but the issue was drawn between fascism and bolshevism, between clericalism and anti-clericalism, between militarism and pacifism, between the white flag and the red flag, between the "Mussolinis"³⁶ and the "Lenins" of France.³⁷ The polemics on both sides were violent, and a person attending the huge communist meeting at which the conservative candidates spoke could see that the propaganda was stirring the passions of the people.³⁸

The election of the two communist candidates was looked upon by the conservative journals as a calamity, as it indicated a partial surrender of the *cartel des gauches* to the extremists.³⁹ On the other hand, the cartellists refused to be alarmed at the slight addition made to the small communist contingent in the Chamber and regarded the election as a setback to French fascism.⁴⁰ An examination of the election figures in the light of previous election returns shows that there were only slight changes in the party alignments.

The moral effect of the election upon the conservatives and the communists has nevertheless been considerable. Allowing for the fact that the Parisians have always been more extreme in their political tendencies than the provincials,⁴¹ it may be said that if a general election

³⁵ M. Franklin-Bouillon, a radical socialist deputy, deplored the bad effect that a communist victory would have upon the French military operations in the Riff.

³⁶ *L'Humanité* launched violent attacks upon Senator Billiet, the president of *L'Union des Intérêts Économiques*, and upon Taittinger, "bonapartiste fasciste" for the support which they gave the conservative candidates. See issues of March 21, 22, 25, 26, and 28, 1926.

³⁷ *L'Écho de Paris*, March 17, 1926, accused the Soviet diplomats, Elanski and Tikhmeneff, of aiding the communists.

³⁸ The demonstrations after the election were large and turbulent. A member of a conservative organization, *Jeunesse Patriotes*, was killed by a policeman.

³⁹ *Le Temps*, March 30, 1926; *Le Journal des Débats*, *L'Écho de Paris*, for the same date.

⁴⁰ *Le Quotidien*, *L'Oeuvre*, and *L'Ère Nouvelle*, for March 29.

⁴¹ G. Gautherot, *Le monde communiste* (Paris, 1925), describes the geographical distribution of the communists in France. For a description of a conservative stronghold see A. Seigfried, *Tableau politique de la France de l'ouest* (Paris, 1913).

RESULTS OF THE LEGISLATIVE ELECTIONS HELD IN THE SECOND SECTOR OF
PARIS SINCE 1920 ARE AS FOLLOWS:

Election	Total number of votes cast	Average number of votes cast for				
		Commun- ist list	Conserva- tive list	Socialist list	Radical, or <i>cartel des gauches</i> list	Other lists ^a
1921 by-elec- tion, first ballotting	118,600	32,900	47,000	12,900	20,500	5,300
Second ballot- ing	132,100	58,200	69,800			3,100
1924 general elections ^b	171,900	40,800	56,400		49,700	25,000
1926 by-elec- tion, ^c first ballotting	118,600	37,600	47,100	15,500	11,700	6,700
Second ballot- ing	134,700	63,200	61,600		7,100	3,800

were to be held in France in the near future, the parties at the two extremes would probably gain at the expense of those in the middle.⁴⁵ A dissolution of the Chamber, after the passage of a law reestablishing the *scrutin d'arrondissement*, is among the political topics of the day.

HAROLD F. GOSNELL

University of Chicago.

^a Includes also the blank and spoiled ballots.

^b G. Lachapelle, *Les élections législatives du mai, 1924* (Paris, 1924), 198-201.

^c *Le Temps*, Mar. 30, 1926.

^d In a by-election held in the city of Belfort on February 4, 1926, M. Tardieu, running as a conservative candidate, captured a seat that had long been held by the radical-socialists. On the other hand, in the department of the Marne, the *cartel des gauches* was successful on February 28, 1926, in electing its candidates.

NOTES ON INTERNATIONAL AFFAIRS

EDITED BY BRUCE WILLIAMS

University of Virginia

Special Assembly of the League of Nations.¹ The Special Assembly of the League of Nations which convened at Geneva in March for the purpose of admitting Germany to the League failed to transact its business and rewarded the German delegation for ten days of embarrassing but instructive waiting with only a unanimous *voeu*. This was proposed by M. Briand at the close of an eloquent and skillful address before the final session of the Assembly; it expressed the regret of that body at the difficulties encountered, and the hope that before the regular September session these obstacles would be surmounted, so as to make it possible for Germany to enter the League on that occasion.

The March proceedings at Geneva have already been extensively described, but the occasion was one of capital importance in the evolution of the League and constitutes the background for a series of problems which remain to be adjusted. The League received from certain quarters unexpected and radical proposals to alter its constitutional structure, and these were promoted in a manner indifferent to, indeed essentially hostile to, its own method of procedure. These efforts failed, thanks primarily to the policy of the Swedish government, conducted throughout with courage and determination by Mr. Unden. It was demonstrated, for the time at least, that the Covenant was not to be modified merely to meet the special policies and ambitions of certain states.

Apart from these results, however, the issues raised at Geneva remain in suspense. Upon their satisfactory settlement depends in considerable measure the immediate capacity of the League to deal with major questions. It is essential that Germany be admitted if the organization is to go forward as an effective agency for the reconciliation of Europe—to say nothing of its wider purpose—and it may be hoped that from this experience a lesson of respect and deference has been learned regarding the conduct of matters which concern the League as a whole.

¹ This note and the following one were written by Professor Williams in Europe and on the basis of first-hand observation. [Man. Ed.]

against slavery. The approaching crisis "tended to diminish the extreme sectionalism as well as the comparative importance of the New England states" and to make that portion of the country more an integral part of the republic, so that the author finds the middle of the nineteenth century an appropriate point for bringing his narrative to a close. Much attention is given to the human side of the history of New England and to the effects of economic and social changes such as the replacement of foreign commerce by domestic manufactures, the development of canals and railroads, and the growth of immigration. In the later part of the book there is an interesting chapter on "Humanitarianism," religion, education, and literature being also included under this heading. The volume is readable from beginning to end.

Lectures on Legal Topics, 1921-22 (Macmillan, pp. viii, 390) contains the second series of lectures delivered at the instance of the New York Bar Association to audiences drawn largely from practicing lawyers in New York City. While the bulk of the articles are of value only to the legal profession, several contain interesting material for the political scientist, especially "Progress in the Law," by Judge Benjamin N. Cardozo; "Sources of Our Law," by Judge Francis J. Swayze; "The Literature of Law," by Sir John W. Salmond, judge of the Supreme Court of New Zealand; "Canadian Constitutional Law," by Rt. Hon. Charles J. Doherty, former minister of justice of Canada; and "A Sketch of Constitutional Law in America," by Judge Augustus N. Hand. The latter is a discussion of the cases and ideas which furnished a background for *Marbury v. Madison*, while Judge Cardozo's lecture presents arguments for a ministry of justice to serve as an agency of mediation between the legislature and the courts. His proposal calls for a committee of not less than five ministers. "There should be representatives, not less than two, perhaps even as many as three, of the faculties of law or political science in institutions of learning. Hardly elsewhere shall we find the scholarship on which the ministry must be able to draw if its work is to stand the test. There should be, if possible, a representative of the bench; and there should be a representative or representatives of the bar."

The British Institute of International Affairs is to be congratulated upon the endowment of its work by Sir Daniel Stevenson, which places its undertakings on a permanent foundation. The publication of the *Survey of International Affairs, 1924* (Oxford University Press, pp. xvi, 528), by Arnold J. Toynbee, is among the fruits of this endowment.

This volume is somewhat more interpretative of the subjects treated than the *Survey of International Affairs, 1920-23*, and does not confine the presentation merely to a statement of facts. The background of topics treated is also laid in, so far as is essential for clear understanding. In the field of world affairs, security and disarmament, movement of population, and the Third International and Union of Soviet Socialist Republics are discussed. In the geographical areas, Western, Central, Eastern and Northern European, and tropical African matters are reviewed. The appendices contain current documents and references showing work of the League of Nations, laws of the United States on immigration, British correspondence on Russian matters, on reparations, on the Ruhr, and various treaties and pacts. The text throughout is well supported by references to other current material, which is frequently secondary where official documentation is not yet available. The index, always of great value in such a publication, is unusually well done, and the maps are clear and serviceable.

The Doctrine of Continuous Voyage (pp. x, 226) is the title of No. 2, Series XLIV, of the Johns Hopkins University Studies in Historical and Political Science issued in 1926. In this study the author, Dr. Herbert Whittaker Briggs, has sketched the development of the doctrine and shown its application in the nineteenth century, with reference to the leading decisions and opinions. The author shows that the relation of continuous voyage and blockade to the British doctrine of retaliation remained unsettled when the United States entered the World War. He also shows that the belligerents attempted to stretch for their temporary advantage other accepted doctrines. Probably not all would agree with Dr. Briggs' conclusion, in which he says, "To the writer there appears no solution short of a rule of international law forbidding neutrals to trade at all with any belligerent. And such a rule would be contingent upon the development of an international civic sense, or feeling of mutual obligation on the part of nations to refrain from trading with belligerents—a feeling which does not now exist. Otherwise, the doctrine of continuous voyage will in the future play havoc with neutral rights when the belligerents are the big powers, and it will remain quiescent when the belligerents are the smaller nations and the powers are neutral." The division of the bibliography into "primary sources" and "secondary accounts" seems arbitrarily made, and in a work of this scope a more extended index would be acceptable.

The American Foundation maintaining the American Peace Award has published a booklet on *International Law and International Relations*

(pp. viii, 201) prepared by Elizabeth F. Read. The purpose is to give the average citizen a simple and intelligible statement of the most generally recognized principles of international law and the tendencies of international relations. Part I deals with the rights and duties of a sovereign state under international law, including an explanation of international law and its sources; Part II discusses the procedure for enforcing the rights of sovereign states (1) by peaceful measures and (2) by forcible measures; Part III is devoted to international organization, especially international unions, commissions, and the League of Nations; while Part IV treats of recent tendencies in international relations, with emphasis on the reduction of armaments, judicial settlement, and the codification of international law. The book should be very useful to the person who desires a simple, non-technical exposition of this vital subject.

It is a great pity that Mr. W. A. J. Archbold, who has had a wide experience in Indian universities, did not see fit to include in *Outlines of Indian Constitutional History, British Period* (P. S. King and Son, pp. 367) something other than a bare documentary outline of the Montagu-Chelmsford Report and the British India Act of 1919. He has treated the older material historically, though with huge gaps. The only value of the present volume lies in bringing together the older material to be found in the Oxford History and in Sir Courtenay Ilbert's work with the modern documents and an extensive but by no means complete bibliography. A postscript of one page suggests the inadequacy of the existing system and some lines of possible development. A book on contemporary Indian constitutional development is very badly required which will give some idea of the actual working of dyarchy in the provinces and of the relations between the central government and the provinces, as well as with the native states. Perhaps the provisional character of the present arrangement is so apparent as to discourage any but journalistic treatment. It remains a fact that a book like the present volume throws absolutely no light on contemporary questions.

Miller McClintock's *Street Traffic Control* (McGraw-Hill Book Company, pp. xi, 233) is the first thorough study of one of the most perplexing problems which confront large cities. As the result of a first-hand investigation in a number of cities, the author gives a detailed analysis of the origin and growth of the street traffic problem and the causes of congestion, after which he summarizes the experience of the greater

American cities and the conclusions of the foremost experts as to the most practicable methods for improving conditions. There is also a chapter on the traffic survey. The methods of traffic control are discussed under the headings of replanning the street system for traffic relief, minor and local changes to increase the street capacity, regulation of moving traffic, regulation of traffic moving on conflicting routes, regulation of the standing vehicle, regulation of pedestrians, municipal traffic codes, the traffic bureau, police equipment and auxiliary devices such as traffic signals, and the treatment of offenders, including the traffic court. Mr. McClintock has become one of the leading authorities on traffic problems, has served as consultant to the Los Angeles Traffic Commission, and is now engaged in a survey in Chicago. Through his efforts, a bureau of research in this field has been established at one of the larger American universities.

The report which Professor Leonard D. White made to the Chicago City Council on *Conditions of Municipal Employment in Chicago: A Study in Morale* (pp. 114) has been published by the city clerk. Space does not permit us to give all of Mr. White's conclusions and recommendations, but among the most important findings are: (1) The morale of the city service in general is not at as high a level as is desirable or easily attainable, although many offices are maintained with a high degree of achievement. (2) The causes for low morale where it exists are lack of stimuli or incentives and the prevalence of political influences. The author recommends: (1) that a systematic method of granting recognition for meritorious work be set up, to include such devices as annual competition for prizes, newspaper and other publicity, etc.; (2) that periodic exhibits of the work of the various departments be held; (3) that changes in organization and methods be made in order to encourage morale, such as frequent conferences between department heads and their responsible subordinates, the establishment of an employees' committee for developing coöperation and handling grievances, social gatherings, and so on; (4) that a constructive program be undertaken by the civil service commission, including a reclassification of the service, improvement of efficiency records, enlarging opportunities for promotion, etc.; and (5) that the mayor assume active leadership in carrying through a program to improve morale in the public service. This report should be read by anyone interested in problems of municipal employment.

An Outline of the Law of Municipal Corporations (pp. xxvi, 240) and *A Selection of Cases on the Law of Municipal Corporations* (pp. 250) by

Professor Allen B. Flouton, of the Brooklyn Law School, are brief treatises on this branch of law as it exists in New York State at the present time. The law of municipal corporations varies so widely in the different states that it is extremely helpful to have a carefully prepared work which is confined to a statement of the principles and the leading cases in a single state, especially a state where the municipality has reached its most complex form. Considerable attention is given to the New York home rule law, and a copy of the decision as to the constitutionality of this statute and of the amendment under which it was enacted is included. Although intended primarily for students and practitioners of law, these books are equally valuable for students of municipal government.

Students of municipal administration will find the first half of William Travis Howard's *Public Health Administration and the Natural History of Disease in Baltimore, Maryland, 1797-1920* (Carnegie Institution of Washington, pp. vi, 565) of great value. Beginning with a presentation of physical and sociological data concerning Baltimore (pp. 31), the author devotes six chapters to ideas underlying the public health laws of the city, the evolution of the actual local ordinances, regulations, and state laws on the subject, and present-day public health administration. The second half of the book is more technical and of chief interest to the health officer and the medical profession.

The Williams and Wilkins Company has published a manual on *Public Health Law* (pp. xviii, 304) by James A. Tobey which not only is indispensable to the public health worker, but should also be of interest to students in constitutional law and in state and local government. The latter group of readers will find the chapters on "Public Health and the Law," "The Sources of Public Health Law," "The Police Power and the Public Health," "State Health Departments," and "Local Health Departments" especially useful. In fact, the whole book, which is written in a clear and non-technical manner, is a distinct contribution and is valuable as a handbook on administration as well as on public health law. There is a selected bibliography, and a table of over 500 cases arranged by states for ready reference.

The legislative bureau of the Indiana Library and Historical Department issues two publications of general interest on governmental matters in that state. The *Year Book of the State of Indiana* (1925, pp. 1222) gives a summary of the official reports of state offices, boards, and institu-

tions, except the educational, benevolent, and correctional institutions. *The Statistical Report* (1926, pp. 200) includes rosters of state and local officers and statistics as to state and local finances, mortgages, highways, and elections.

The Harvard University Press has published a three-volume work on *Mr. Secretary Walsingham and the Policy of Queen Elizabeth* by Conyers Read (pp. xi, 443; 433; 505). These volumes, the author explains, are "something more than a biography of Walsingham and something less than a history of Elizabethan policy." Walsingham's private life possesses small interest and he has left no records outside the state papers, but he "stood at the very center of the royal administration and for seventeen years was the most active agent of the Queen in every department of state except those of justice and finance." Religion and foreign affairs, at a time when these were inseparable, and all matters of general policy passed through his hands, so that his career becomes a not inconsiderable section of English history. All this Dr. Read has studied in great detail with a patient mastery of the large and complicated body of sources and with the sure touch of the mature historian. His work will be indispensable to all students of the period, a monument of thorough research and an honor to American scholarship.

(C. H. H.)

Etudes de Droit Anglais: La Conception Anglaise de la Saisine du xii^e au xiv^e Siècle (Jouve, pp. 488), by F. Joüon des Longrais, possesses interest for students of comparative jurisprudence as well as for those concerned with the history of the common law, since it treats one of the most characteristic institutions of English law with due reference to the Roman and Continental background. In the author's view, the English conception of seisin arises, not from the influence of the Roman *possessio*, but as a direct outgrowth of the possessory assizes of Henry II, and had originally a definite political purpose in relation to the power of the feudal lords and the new remedies for the protection of possessory rights. This thesis is developed in solid fashion, though somewhat too systematically, with full use of contemporary and modern authorities. The author is well equipped for the further studies which he promises in this field.

Studies in the Period of Baronial Reform and Rebellion, 1258-1267, by E. F. Jacob (Oxford University Press, pp. xvi, 443), is Number XIV in the Oxford Studies in Social and Legal History. It contains two

sketches of social and administrative conditions during the baronial movement. One picture is of some of the local effects of the Provisions of Oxford. The other shows the after effects of the rebellion of De Montfort. The material for the study is taken largely from the judicial records of the time.

The Laws of the Kings of England from Edmund to Henry I (Cambridge, at the University Press, pp. xiii, 426), edited by A. J. Robertson, continues the previous *Laws of the Earliest English Kings* to Henry I, and includes the so-called *Leis Willeme*. It contains texts, translations, and very full notes and indices, making an extremely useful volume for the student of English constitutional history.

The Roman Colonate: The Theories of Its Origin, by R. Clauzing, with an introduction by Vladimir G. Simkhovitch (Columbia University Studies in Political Science, pp. 333), contains a detailed and fairly dispassionate review of the theories of the Roman colonate since the days of Cujas and Godefroi, which is unquestionably very useful. The author then restates Professor Simkhovitch's theory of soil exhaustion as being the basic factor in the formation of the colonate. One can hardly say, however, that the doctrine in its new formulation seems any less one-sided or any better in agreement with the facts than before.

(R. P. B.)

So logical in form and clear in expression that every page counts, *Précis Élémentaire de Droit Pénal et de Procédure Pénale*, by J. A. Roux (Sirey, Paris, pp. 425), is not only a manual for students of French criminal law and procedure, but as well a suggestive philosophical treatise on penal legislation.

M. Louis Josserand, of the Faculty of Law at Lyon, has completed the seventh edition of *Précis Élémentaire des Voies d'Exécution* (Sirey, Paris, pp. 400). This is the standard work, originally by Garsonnet, which, through repeated revisions, Dean Josserand has made his own. Within the obvious limits of a summary exposition of technical remedies prepared for the use of students of French law, the book is a model.

The Road to Peace, by Herman Bernstein (Frank-Maurice, pp. 245), is composed mainly of summaries of interviews by the author with leaders, in many fields of endeavor, in Europe and the United States. These interviews are necessarily short and very general. Topics discussed vary greatly with the persons interviewed, but center largely

around present threats to world peace and the probable effectiveness of recent proposals and developments in averting future war.

The Origin of the Next War, by John Bakeless (The Viking Press, pp. 318), is a temperate exposition of sore spots in international politics which, read as a sequel to such a classic as Upton's *Military Policy of the United States*, would do much to make it unnecessary for those Americans who were slaughtered in 1917-18 because we did not then believe in preparedness to rise from their graves in order that the moral of their sacrifice might be driven home. (G. H. M.)

The Other Side of the Medal, by Edward Thompson (Harcourt, Brace and Company, pp. viii, 142), is a book whose publication, according to the author, has been long suppressed because of the fear that it would stir up bitter feelings. It is an attempt to present the Delhi Mutiny from the point of view of the Indian, as a series of horrors and tortures for the native, in place of the usual picture of the valor and bravery of the British soldiers. In the opinion of the author, the memories of the Mutiny are one of the two main roots of Indian "irreconcilability."

After reading *The New Baltic States and Their Future*, by Owen Rutter (Houghton Mifflin Company, pp. 274), we are very glad that the author, an English gentleman of scholarly attainments, became so anxious to get first-hand information about these countries that he went to see and investigate them. Apparently the drastic agrarian reforms have not greatly upset the agricultural welfare of the countries and the peasants are taking hold splendidly. Country life, as it is herein shown, seems to be prosperous and pleasant in spite of the hard work, but the cities appear to be backward and rather uncomfortable places of sojourn. Although Mr. Rutter is primarily interested in economic conditions, he does not neglect the questions of language and national culture. He rejoices, along with the Lithuanians, Letts, and Estonians, that the separate languages are once more flourishing. But why do people rejoice to have nearly forgotten tongues revived when everyone knows there are too many already? At present, it is true, the Baltic farmers have not the cash to spend for radios. But when they do have it, and then find that they can understand but one broadcasting station, what of the consequences? This is a question that Mr. Rutter did not consider.

Italy, the Central Problem of the Mediterranean, by Count Antonio Cippico (Yale University Press, pp. xi, 110), comprises six lectures given during the 1925 sessions of the Institute of Politics at Williamstown.

Its chief purpose is to show the anomalous position now occupied by Italy, which has become a great nation, but has a superabundant population and is dependent for its existence upon the maintenance of free communications in the Mediterranean. History is invoked to show how this control over communications, by the possession of which alone can Italy be really free, together with the ownership of the better lands for colonial purposes, has been placed in the hands especially of Great Britain and France. The last two lectures are devoted to a sketch of the development of Fascismo and to a moderate statement of its aims in making Italy a strong and well-organized unity.

Although Knowlton Mixer, the author of *Porto Rico, History and Conditions, Economic, Political and Social* (The Macmillan Company, pp. 329), does not claim "for this small volume that it completely covers the subject even in condensed form," we cannot think of a field he does not at least mention. For one who wishes more information than is in this book there is an excellent bibliography to serve as guide. The book is written in a clear and simple style and the author has no particular thesis to force upon the reader.

Two recent high-school texts dealing with somewhat the same subjects, but employing different methods, are *Economics for Citizenship*, by W. D. Moriarty (Longmans, Green and Company, pp. vii, 544), and *Practical Social Science*, by John A. Lapp (Macmillan, pp. ix, 371). The former book is confined to economics and follows the traditional method of presentation. Dr. Lapp's book includes problems of government and sociology as well and is described as "a laboratory textbook." Instead of giving a connected narrative, the author sets forth important facts, figures, tables, and other data derived largely from government reports. The student is then asked certain questions which are to be answered by the study and analysis of this data, the whole purpose being to develop independent judgment, discrimination in the use of social information, and the power of analysis, and to arouse the interest of the student. Mr. Lapp has worked out a very interesting plan for using the "problem method" of instruction in high-school classes.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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As is commonly known, the difficulties referred to above grew out of attempts to alter the composition of the Council in addition to granting a permanent seat to Germany. The whole question of Germany's admission to the League was muddled some weeks, or perhaps months, in advance of the March Assembly by efforts to create additional seats on the Council by diplomatic bargaining and private understandings. It finally remained for Brazil to contribute the last of a series of discreditable maneuvers which collectively served to thwart the wishes and expectations of the vast majority of the members of the League. That the "spirit of Locarno" was in part purchased last October by promises to elevate Poland to a place on the Council simultaneously with the entrance of Germany is merely a conjecture, and one which all believers in elementary fair dealing would wish resolutely to put aside. But, apart from the matter of good faith toward Germany, it was disquieting to observe a limited group of states attempting to adjust to their own advantage a matter of such importance as the structure of the Council and one which so manifestly comes within the framework and procedure of the League itself.

In a report on the March Assembly to the Swedish Parliament on March 26 last, Mr. Unden made the following declaration: "When I still, in spite of all, dare hope that the crisis just experienced may lead to success, it is because this hope is inspired by the fact that the smaller states did succeed in defeating the attacks on the constitution of the League. It has been proved to the whole world that secret promises and private agreements of the Great Powers on the vital concerns of the League cannot be accepted as law for the League itself."²

What was the nature of this attack on the constitution of the League to which Mr. Unden referred? The question should first be examined in the light of the principle originally established at Paris respecting the composition of the Council which, the representative of Sweden contended, should be altered only through the orderly procedure of the League as a whole.

When the Covenant was drawn up at Paris, the principle adopted in respect to the structure of the Council and expressed in Article 4 was that of permanent membership for the Great Powers and representation of the other members of the League in a permanent minority of one.³ A departure was made from this principle, however, in 1922 when the

² *Social-Demokraten*, Stockholm, March 26, 1926.

³ Philip Baker, "The Making of the Covenant from the British Point of View," in *Les Origines et L'Oeuvre de la Société des Nations*, II, 37.

Third Assembly, upon the recommendation of the Council, increased the non-permanent seats from four to six. But it does not appear that the alteration made at that time was regarded as permanently modifying the principle laid down in Article 4. Indeed it was specifically pointed out in the Council's proposal on the matter that "a subsequent augmentation of the number of permanent members would reëstablish the principle of which Article 4 is the application without it being possible to consider that the change proposed today prejudiced such reëstablishment."⁴ Such an augmentation of the permanent members had been generally foreseen with the admission of Germany to the League and, if ever, the United States and Russia. The entrance of Germany in 1919 had been advocated, it may be recalled, at Paris by the British and American delegations, but was not pressed on account of the opposition of the French.⁵ Her subsequent entrance with a permanent seat on the Council was a logical application of the accepted principle of the League on the make-up of the Council, and not the occasion to demand its reconstruction.

It must, of course, be said that the above principle respecting the structure of the Council need not have been regarded as irrevocably fixed; but any departure therefrom was preëminently an affair of the League as a whole. It was the type of question for which League precedent and procedure would have dictated open investigation and report, and adequate notice to all members of the League well in advance of any proposed action. The methods actually employed in the matter prior to the March Assembly and the irregular and secret manner in which negotiation proceeded there are properly characterized by Mr. Unden as subversive of the constitutional procedure of the League. No opportunity was given the Assembly to express its opinion on the claims of the various Powers for seats on the Council, or to exert its influence toward the withdrawal of these claims. The Assembly desired the admission of Germany to the League and to the Council; the part it actually played in the proceedings was merely to be summoned on the last day and to be told by the Council that the matter had been postponed. The negotiations precedent to this decision were carried on entirely outside League procedure and machinery.

Claims for seats on the Council along with Germany were publicly revealed during the later part of February, with Poland, Spain, Brazil, and China in the rôle of aspirants. Whatever may have been the

⁴ Minutes, First Committee, Third Assembly.

⁵ House, *What Really Happened at Paris*, 418.

origin of the Polish claim, it was supported throughout with excessive zeal by France, and Sir Austen Chamberlain appeared to regard its recognition as the chief aim of a worthy conciliator. On March 2, M. Briand stated in the French Chamber the position of his government on the question: "It was in favor of the extension of the Council and the business would now have to be dealt with. If the Council were enlarged he would see Poland on it with very keen pleasure (cheers), and he hoped that Germany would understand that that was her own interest, since the Council was not a closed field of combat but an organ of conciliation, taking its decisions unanimously."⁶

When the French delegation arrived at Geneva some days later it was understood to be ready to support the desire for permanent seats put forward by Poland, Spain, and Brazil. In short, M. Briand appeared to approach the question of the reconstruction of the Council in very much the same spirit as he might show in manipulating the various blocs in the French Chamber in order to secure a majority—any sort of an arrangement would do so long as Poland was in the combination. And throughout the whole Geneva proceedings the French support of Poland was tirelessly maintained, although one resourceful scheme after another proved unable to prevail against the principle upheld by Mr. Unden. Sweden won her case against the enlargement of the Council; but even in the last compromise, which was wrecked by Brazil, a place was found for Poland. It was presumed that the Assembly would have chosen her to one of the seats vacated by the magnanimity of Czechoslovakia and of Sweden. Did France inspire this Polish¹ claim or did she merely feel compelled to champion the cause of a troublesome and exacting ally? In either case the result was the same. It was one of the major causes of the Geneva failure; for, once the claim of Poland was countenanced, the field was open.

An impressive bulk of opinion in Great Britain assigns to Austen Chamberlain a like responsibility for the failure of the March Assembly to admit Germany to the League. He is charged with an easy acquiescence in the various schemes early set on foot for enlarging the Council and with persevering in a policy at variance with the mandate of his country. It must, in fact, be said that if it were permitted to anyone to remove in advance the difficulties which blocked the entrance of Germany, Sir Austen enjoyed that privilege, and not only did he fail to exercise his authority in this direction, but he used it instead

⁶ *London Times*, March 3, 1926.

in the fashion best calculated to defeat the object which, without doubt, he genuinely desired.

Public opinion in Great Britain pointed out his way with marked precision well in advance of the Geneva meeting. In an editorial on February 27, the London Times summed up the matter thus: "Representatives of every party and of associations that include members of various parties, as well as individuals like Lord Grey, who possess a national authority independent of their party standing, have expressed similar views with singular unanimity. They are utterly hostile to the idea of making the admission of Germany to the League and the Council next month an occasion for enlarging the Council by the sudden admission of three other new permanent members..... It is not going too far to say that the country.... was definitely shocked by this unexpected proposal to reduce to the terms of ordinary diplomatic bargaining an occasion that ought to have been the undarkened symbol of European reconciliation."

Such was the reaction—and warning—which the British Foreign Secretary received at home toward the proposals to enlarge the council,—proposals which, only a short while before, he had referred to with unfortunate toleration in his speech at Birmingham. He had at least two weapons with which he might have resisted the various schemes that were springing up about him. One was the wellnigh united hostility of his countrymen toward him. The other was the principle which the Swedish government has announced, namely, that the revision of the Council was a matter for the whole League to consider through its own careful and orderly procedure, and was not the business for which the Special Assembly was convened. The first of these, the strength of opinion in Great Britain, he deliberately discarded; the second, the League principle, he utterly failed to perceive. Had Sir Austen been disposed to accept the judgment of his own country, which was regardful of the true interests of the League, he should have moved promptly and vigorously in the early stages of the threatening crisis. This he refused to do, insisting rather upon a "free hand" at the March Assembly, which he used there to the evident dismay and dissatisfaction of large elements of the British public.

Sir Austen went to Geneva with definite instructions from the British cabinet. Subject to the discretion of the Foreign Secretary to make the best arrangements he could secure in accordance with the development of the situation, British policy was to be based on the following principles: (1) No change in the Council can be admitted which would

have the effect of preventing or delaying the entry of Germany. It would be best that Germany should, as a member of the Council, have full responsibility for any further change in the Council beyond her own admission. (2) The rule that only Great Powers should be permanent members of the Council should, in principle, be maintained. Spain is in a special position and may require exceptional treatment. (3) Neither Poland nor Brazil should be made permanent members at present; but Poland should be given a non-permanent seat as soon as possible.⁷

Two major obstacles were immediately apparent at Geneva which threatened to prevent the entry of Germany and thus defeat the first object emphasized in the above instructions. The one was the Polish candidacy for a Council seat, permanent or non-permanent; the other was the veto of Germany announced by Brazil unless she as well was advanced to permanent tenure on the Council. These were manifest obstacles by reason of the positions assumed by Sweden and by Germany. The former had from the beginning definitively announced her opposition to all plans for enlarging the Council; the position of Germany was equally clear and as firmly stated. She had applied for admission to the League, and her entry had been solicited, upon what seemed to be obvious and well-defined understanding. If in the meanwhile, through unexpected events, important alterations were made in the structure of the League modifying the original situation, she would have to be excused. She would withdraw her application.

In the face of this situation, certain of the chief negotiators among the "Locarno Group" spent a busy week in efforts to find a place for Poland. Some of them were irritated beyond measure by the policy of Mr. Unden. As for Brazil, her threat was apparently disregarded, although voiced in monotonous cadence by M. de Mello-Franco whenever he was fortunate enough to catch an ear. Finally, M. Vandervelde (Belgium) proposed to the Locarno Powers that all claims to permanent seats be renounced, and that a non-permanent seat be created to which it was assumed that Poland would be elected by the Assembly.

France and Great Britain accepted this proposal; Germany refused. Sir Austen Chamberlain described the outcome of these efforts as a tragedy. He cited the conciliatory attitude of M. Briand and his own efforts to "go one better." But he felt that Herr Luther's rejection of their proposal had made all efforts to continue the conversations

⁷ *London Times*, March 24, 1926.

useless.⁸ Had Sir Austen sensed in the beginning the inevitable danger and delay that would be involved in supporting the Polish claim, or had he at once grasped the determination with which Sweden took her position, he might have spared himself a week of exhausting effort; or, at least, he would have been able to direct his energies earlier to the problem raised by Brazil.

To accept the Swedish principle—in reality the League principle—would have meant withdrawing his support of the French, who, as the situation had developed, would then have been in a fair way to experience a “diplomatic defeat” with the loss of the Polish claim. But this would not have been without its salutary consequences. After all, some limit will eventually have to be placed to the demands of France based on the plea of security against Germany.

If viewed as a detached and solitary aspect of the Geneva proceedings, the obstructive tactics of Brazil merit strong condemnation. In the circumstances under which they were displayed, they, however, became less exceptional, if not to some degree excusable. On the question of the admission of Germany to the League, the southern republic had long had mischief up her sleeve; spurred by the activities of some of her associates on the Council, she let it loose. The price she set for her approval of a permanent seat for Germany in the Council was a corresponding position for herself. This, in substance, was using the position on the Council to which she had been temporarily chosen by the members of the Assembly to extort for herself a preferential status within the League. The claim of Brazil that in so doing she was safeguarding the interests of American states in general cannot be sustained, in view of the collective efforts of the latter to dissuade her from her final obduracy. When she continued to press her interests, after the way to compromise and the admission of Germany seemed to have been opened by the proposed withdrawal of two temporary members of the Council, the representatives of ten American states presented M. de Mello-Franco with a resolution which read as follows: “The American delegations, conscious of the gravity of the League’s present situation, regardful of the interests of world peace, and realizing how essential it is that the American States should exert their influence to bring about the reconciliation of the peoples of Europe, desire to express to His Excellency, M. de Mello-Franco, the hope that Brazil will take such steps as she may consider most opportune to bring about unanimity in the Council and so remove the difficulties which stand in

* *London Times*, March 13, 1926.

the way of its decision."⁹ Brazil, however, was not so disposed, and her representative informed the Assembly at its final session that the instructions of his government were final and irrevocable.

In the autumn of 1924 Germany approached, individually, the states members of the Council on the subject of her entry into the League, stipulating as one condition a permanent seat on the Council, and requesting certain exemptions under Article 16 of the Covenant. The replies which she received—none of which were published at the time except that of Sweden—were interpreted at Berlin as being favorable in respect to the matter of a permanent seat on the Council. But the reply of Brazil, portions of which were read by M. de Mello-Franco at the final Assembly session at Geneva, contained the following reservation: "The government of Brazil understands, however, that the concrete questions resulting from the desire expressed by Germany belong to the class of questions which should not be dealt with between one government and another but which should rather be explained and discussed in their entirety by the members of the League and within the League, in order that the various aspects of these questions and the points of view of the other parties concerned may be better known."

This was, as a matter of fact, excellent doctrine. But M. de Mello-Franco was telling only half the story. Germany did, immediately afterwards, bring "within the League" for discussion there in their entirety the questions she had raised over her adhesion. On December 12, 1924, she forwarded to the Secretary-General of the League the memorandum previously dispatched to the states members of the Council together with a note which carried forward the discussions. Her letter to the Secretariat said in part: "As will be seen from the memorandum, a copy of which is appended hereto, the object was to ascertain the attitude of the said governments with regard to Germany becoming a member of the Council of the League of Nations, as well as with regard to the participation of Germany in the sanctions provided for in Article 16 of the Covenant. . . . The German government has now received the answers to the memorandum. It notes with pleasure that its decision has been accorded full approval in the replies furnished by the Powers represented on the Council of the League. The German government, moreover, believes the replies justify it in concluding that its wish for Germany to have a seat on the Council of the League is being favorably considered by the governments now represented on

⁹ *Monthly Summary*, March, 1926.

the Council. On the other hand, as far as Article 16 is concerned, the replies have not as yet led to a satisfactory conclusion."¹⁰

The Council of the League, of which Brazil was then a member, unanimously adopted on March 13, 1925, the text of a reply to the above communication which was later forwarded by the Secretary-General to the German government. In this note the Council recorded its satisfaction that the German government had "decided to seek the early admission of Germany to the League of Nations" and observed: "The German government have already consulted the ten governments who are represented on the Council and have received authoritative replies from all of them. Any observations which can now be made by the Council, composed as it is of representatives of these same governments, will obviously not be at variance with those replies. The Council is glad, therefore, to learn that, with one exception, the replies are satisfactory to the German government."¹¹

In discussing the obligations of a member of the League under Article 16 of the Covenant, the reply continued: "The Council would further remind the German government that a member of the League, and of the Council, would always have a voice in deciding the application of the principles of the Covenant." And the communication concluded in the following cordial terms: "In conclusion, the Council wishes to express to Germany its sincere wish to see her associated in its labors, and thus play, in the organization of peace, a part corresponding to her position in the world."

In none of these preliminary negotiations through the League did Brazil raise the "point of view" which she later maintained at the March Assembly. Whatever reservation was made in her reply to the original memorandum of Germany, she certainly, as a member of the Council which drafted the note cited above, cordially endorsed the entry of Germany into the League and took no exception to the general assumption that Germany should be awarded a permanent Council seat.

The foregoing brief review of a situation of infinite complexity at Geneva indicates only some of the decisive forces which were there brought into play. And it presents, obviously, the worst side of the picture and the one which has done most to endanger the prestige of the League. The consequences of the March Assembly have in some

¹⁰ *Monthly Summary*, December, 1924.

¹¹ *Monthly Summary*, March, 1925. The "one exception" obviously refers to the unsatisfactory nature of the replies respecting Article 16.

instances been magnified and distorted, but it is plainly apparent that a problem of the first order exists in connection with the evolution and expansion of the League. On the other hand, predictions of the enfeeblement of the League or of its early demise are premature. In truth, the League has become an organization of such vitality and force that positions of authority in its deliberations are regarded as being tremendously worth while. From a certain standpoint, all this struggle over Council seats is the most genuine testimonial yet offered to the position which the League has acquired in international affairs. With the increasing importance of that position there is nothing essentially sinister or surprising in the appearance of discordant and conflicting interests in proceedings at Geneva. These things exist in the normal relations of states; it is the function of the League to bring them within its orbit and to seek their adjustment through its processes. No expectation of the League is so unwarranted as that which would demand the settlement of every issue brought before it with complete harmony and invariable justice. In no form of political organization is this pleasant ideal achieved, and to expect it from the League is to soar far above realities. The League has long since proved its usefulness, but the problem remains of promoting among the various nations a common willingness to sustain and increase its functions.

The recent events at Geneva have frequently been described as a conflict between the methods of the League and the traditional practices of the old diplomacy. This is essentially correct, and the adaptation of states to the new method of doing business is likely to require more time and effort than was originally supposed. During the late war it was remarked that the training of a brigadier-general was likely to cost the lives of a division of men; someone might attempt to compute the cost in League "values" of the training in League methods of certain foreign ministers of state. Sir Austen Chamberlain, admitting even that he is well disposed, is a singularly inapt pupil. M. Briand, who sincerely desires a reconciliation between France and Germany, may be too much of the old school to learn new ways. Mr. Unden, although yet in his early thirties, stands at the head of the class.

The League Commission on the Composition of the Council. As a sequel to the problems raised at the Special Assembly, the Council of the League, at a meeting on March 18, set up a commission for study and report on the future composition of the Council. Provision was made for appointment to the commission of representatives of the present

members of the Council and representatives from the Argentine Republic, China, Germany, Poland, and Switzerland. The commission was instructed in the Council resolution "to study the problems connected with the composition of the Council and the number and mode of the election of its members . . . to give particular attention to the claims so far put forward by or on behalf of certain members of the League . . . and to bear in mind the various proposals on the subject previously discussed by the Council or the Assembly, and in particular, the resolutions regarding geographical and other conditions, several times adopted by the Assembly."

The commission met at Geneva on May 10, with representatives present from all of the powers which had been requested to participate in its proceedings. Twelve meetings were held, all of which, with a single exception, were public. At a meeting on May 17, the commission adopted, at its first reading, a draft report to the Council summarizing progress made to date. With the adoption of this report, the Commission adjourned until June 28, at which time it was to proceed to a second reading of the draft report and to a consideration of such problems as yet remained to be studied.

The commission accepted the principle of an increase of the non-permanent members of the Council. As regards the number and method of their election, it suggested the following draft regulations: (1) The non-permanent members of the Council shall be elected for a term of three years. They shall assume office immediately on their election. One third of their number shall be elected each year. (2) A retiring member may not be reelected for three years commencing with the date of expiration of its mandate unless the Assembly shall decide otherwise, either at that date or in the course of the three years, by a majority of two thirds; the number of members thus reelected shall not, however, exceed one third of the total number of the non-permanent members of the Council.¹² (3) Notwithstanding the foregoing provisions, the Assembly may at any time by a two-thirds majority decide, in application of Article 4 of the Covenant, to proceed to a new election of all non-permanent members of the Council. In this case the Assembly shall determine the rules applicable to the new election. (4) The non-permanent members shall be increased to nine in number. (5) In order to bring the above

¹² As a transitional measure, the decision provided for in this paragraph may, at the election of 1927, be taken not only with respect to the members whose mandates expire at that time, but also with respect to those whose mandates expire in 1928 and 1929.

system into operation there shall be elected nine members as soon as possible in the next Assembly. Three of them shall be elected for a term of three years, three for two years, and three for one year.

It will be noted that no reference is made in these proposals to an increase in the number of the permanent members of the Council. The commission adjourned this question until its later session and likewise its report on the claims for permanent seats put forward during the Special Assembly. Certain reservations in regard to the whole draft were submitted by the representatives of Brazil and Spain; and the representative of Poland made a reservation in regard to item 2 above, and the representative of Sweden in regard to item 4. The commission expressed the considered opinion that the application of the principle of an increase in the number of non-permanent seats "should have as one of its consequences the attribution of three non-permanent seats to the states of Latin-America."

From the discussions which took place in the commission the conclusion may be drawn that there will be no immediate increase in the number of permanent seats on the Council other than the allocation of a seat to Germany upon her admission to the League. A basis of compromise with the claims of such states as Spain and Brazil appears in item 2 above, which provides for the introduction of a class of "semi-permanent members" who may be re-elected every three years by a two-thirds vote of the Assembly if that body is disposed to continue their mandate. It is probable that the commission purposely adjourned the question of an increase in the number of permanent seats to await the response of Spain and Brazil to this proposal.

Special importance attaches to the recommendation contained in item 3. It draws attention to the authority which the Assembly has under Article 4 of the Covenant, and which it can now exercise, it appears, by a simple majority vote. Indeed it was pointed out at Geneva during the March proceedings that the Assembly was competent at any time to revoke the mandate of a non-permanent member of the Council, and in the future such members who set themselves in solitary and wilful opposition to the wishes of the Assembly may feel the pressure of this authority.

On the whole, the work of the commission to date (May 20) records substantial progress over the difficulties raised in March, and the prospects of the early admission of Germany to the League are correspondingly brighter. Apart from the prospects of adjustment offered through the commission's report, it is improbable that Spain, although

failing to obtain a permanent Council seat, will veto a seat for Germany; and if Brazil persists in her intransigency she will doubtless be relieved of her mandate on the Council by the September Assembly.

The above proposals were placed before the commission by Lord Robert Cecil, who brought to the work of the commission his long experience and resourcefulness in dealing with problems before the League. M. Motta (Switzerland) presided over the sessions of the commission; and its method of work and the results obtained offered a sharp contrast to the March negotiations.

BRUCE WILLIAMS.

University of Virginia.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS¹

The twenty-second annual meeting of the American Political Science Association will be held at St. Louis December 28-30. The program committee, of which Professor Francis W. Coker, of Ohio State University, is chairman, has planned general sessions at which the following subjects will be taken up: political ideas of recent British socialism; the elections of 1926 with special reference to the general party situation; state interference in private opinion, teaching, and conduct; government and private property, with reference to recent tendencies in doctrine and practice; and the anti-parliamentary movement in Europe. The forenoons will be devoted, as usual, to round tables. The tentative list of topics to be dealt with in these group meetings is as follows: the problems of a scientific survey of crime; research methods relating to the problems of legislative and administrative areas, with particular reference to the question of federal centralization; the question of coöperation between those engaged in practical and those in academic research; scientific method in the study of electoral problems; problems of method in investigations dealing with political parties; an analytical approach to the subject of world politics, in both teaching and research; research problems relating to public opinion; reorganization of courses and curricula in political science along functional rather than descriptive lines; and the problem of orientation courses. Until the end of August the chairman of the committee will be in London, where he can be reached in care of the American Express Company.

A meeting of the executive council of the American Political Science Association and board of editors of the *AMERICAN POLITICAL SCIENCE REVIEW* was held at Iowa City on June 28, in connection with the Commonwealth Conference mentioned below. Reports of officers and committees were heard, including a preliminary report of the special committee on fiscal policy, and routine business was transacted. A committee

¹ Members of the American Political Science Association and other persons interested are invited to send to the managing editor carefully authenticated items or notes suitable for publication in this department of the *REVIEW*. They must ordinarily be in hand by the middle of the second month preceding the date of publication.

to nominate officers of the Association for 1927 was appointed, as follows: Thomas H. Reed, University of Michigan Chairman, John Alley, Charles G. Fenwick, H. G. James, and Charles E. Martin. Members of the Association are invited to give suggestions to any member of the committee.

Professor Albert Bushnell Hart, an ex-president of the American Political Science Association, and one of the most widely known of American scholars in the fields of history and government, retired from his professorship at Harvard University at the close of the past academic year. He will devote his time henceforth to travel, lecturing, and writing. His successor in the Eaton professorship of the science of government is Professor Charles H. McIlwain, who has been at Harvard since 1911.

Professor W. W. Willoughby, of the Johns Hopkins University, is in Europe for the summer. He has recently been placed on a half-time basis at the university.

Professor Charles E. Merriam, of the University of Chicago, is spending the summer in Europe. He accompanies Professor Samuel N. Harper to Russia, where Professor Harper is studying the soviet system of civic education, and he will also consult with the representatives of the coöperative survey of civic education which is being conducted under his direction in England, France, Germany, Switzerland, and Italy.

Professor W. W. Cook, of Yale University Law School, will spend the academic year 1926-27 at the Johns Hopkins University as visiting professor of jurisprudence.

Dr. Herman G. James has been made dean of the graduate college at the University of Nebraska, which position he will hold in addition to the deanship of the college of arts and sciences. He is giving courses at the University of Texas during the second term of the summer session.

Professor P. Orman Ray has resigned at Northwestern University to accept a professorship at the University of California.

Professor F. F. Blachly, who spent the past academic year in research work at the Institute for Government Research in Washington, has resigned his position at the University of Oklahoma and has joined the staff of the Institute.

Professor A. B. Hall, of the University of Wisconsin, has resigned to accept the presidency of the University of Oregon. He will assume his new duties in September.

Professor Harry T. Collings represented the University of Pennsylvania at the Panama-Pacific Congress in June, 1926, and later made a brief survey of conditions in Hayti for the American Academy of Political and Social Science.

Professor John P. Senning has been advanced at the University of Nebraska to the rank of full professor. He and Professor L. E. Aylsworth gave courses in the Nebraska summer session.

Professor Leonard D. White, of the University of Chicago, was on leave of absence during the spring quarter and first term of the summer quarter. He is making a survey of the city manager movement and has visited about forty cities in various parts of the United States.

Professor James T. Young, of the University of Pennsylvania, will serve as a member of the Forum of the Sesqui-Centennial Exhibition at Philadelphia, an organization which will bring to this country a number of leading publicists from abroad to address audiences at the Exposition upon the progress of the ideals of the Declaration of Independence in the respective countries represented by the speakers.

Professor J. R. Hayden, of the University of Michigan, secretary-treasurer of the American Political Science Association, accompanied Mr. Carmi Thompson and his associates to the Philippines and will represent the Christian Science Monitor in connection with the inquiry. He plans to visit Indo-China before his return.

Mr. Ifor B. Powell, of the University College of Wales, Aberystwyth, who during the past year has been engaged in a study of provincial and municipal government in the Philippines as Riggs fellow of the University of Michigan, has been awarded a Laura Spelman Rockefeller fellowship to enable him to continue his investigation another year.

Professor Ralph S. Boots, of the University of Nebraska, has resigned to accept a professorship at the University of Pittsburgh. He taught at Pittsburgh in the current summer session.

Professor H. Duncan Hall, formerly of Oxford, and more recently of the University of Sydney, will take over the subject of international affairs as a regular member of the staff of the School of Citizenship and

Public Affairs at Syracuse University next year. Mr. Hall is author of "The Constitution of the British Commonwealth" and has been prominently connected with the Institute of Pacific Relations.

Professors F. G. Crawford and H. W. Peck, of Syracuse University, are to undertake for the New York department of public works a survey of the benefits arising from the construction of public roads. The inquiry will cover not only economic, but also social, benefits as found in several sample counties. It is planned as an aid to solving the problem of tax burdens for public roads purposes.

Professor Orrin C. Hormell, of Bowdoin College, is giving two courses on municipal government in the summer session of the University of Michigan. The charter committee of Oldtown, Maine, has engaged him to draft a charter for the city, to be submitted to the state legislature at the session of 1927.

Mr. Eldon Griffin, who has been pursuing graduate studies in Asiatic history and culture at Yale University, has been appointed to an assistant professorship at the University of Washington, where he will give courses on Asiatic affairs.

Dr. Harold M. Vinacke, of Miami University, has accepted a professorship of political science at the University of Cincinnati. He will have charge of the work in international law and politics.

Mr. George B. Galloway, of the Brookings Graduate School, has accepted a research position with the Philadelphia Bureau of Municipal Research.

Dr. Austin F. Macdonald has been promoted to an assistant professorship of political science at the University of Pennsylvania, and has been given leave of absence for the first term of the coming academic year to make a study, as holder of a Social Science Research Council fellowship, of federal subsidies to the states. It will be recalled that he has already written on this subject.

Mr. H. Sutherland Davidson has been transferred from the political science department at the University of Pennsylvania to the department of anthropology.

Dr. B. F. Wright, Jr., adjunct professor of government at the University of Texas, has resigned to become instructor in government and tutor in the division of history, government, and economics at Harvard University.

Mr. Oliver P. Field has been advanced in the political science department of Indiana University from an instructorship to an associate professorship.

After a year as assistant professor of political science at Western Reserve University, Dr. O. Douglas Weeks is returning to the University of Texas as associate professor.

Professor Norman L. Hill has resigned his position at Western Reserve University to accept an assistant professorship of political science at the University of Nebraska. His courses will be chiefly in the field of international law and relations.

Drs. Morris B. Lambie and John M. Gaus have been advanced to the rank of full professors at the University of Minnesota.

Dr. Carl Friedrich, of the University of Heidelberg, gave courses in foreign polities and International relations in the summer school at the University of Minnesota.

Mr. John G. Heinberg, who has recently completed his work for the doctorate at the Brookings Graduate School, has been appointed assistant professor of political science at the University of Missouri.

Dr. John Dickinson, lecturer in government at Harvard University, has received a grant from the Milton Fund to enable him to complete an investigation of party alignments in Congress, with a view especially to determining the regularity or otherwise of party alignments with reference to political issues.

Professor Frank M. Stewart, who spent last year in study at the University of Chicago, has been promoted at the University of Texas to an associate professorship.

Dr. Irwin Stewart has resigned as adjunct professor of government at the University of Texas to become an assistant solicitor in the State Department at Washington.

Mr. Charles A. Timm, instructor at the University of Texas, will devote the coming year to graduate work at Harvard on the basis of a Carnegie fellowship in international law.

Mr. A. V. Johnston, who served during the past year as a supply instructor at the University of Wisconsin, has been appointed to a position in the political science department of Grinnell College.

Dr. C. M. Kneier, of the University of Illinois, has been appointed to an instructorship at the University of Texas.

Professor Van K. Sugareff has been granted a leave of absence for the second semester of the academic year 1926-27 from Texas Agricultural and Mechanical College in order to continue work on his doctoral thesis at Columbia University.

Mr. Amry Vandenbosch has resigned as instructor in political science at Iowa State College to accept an assistant professorship of government at the University of Kentucky.

Mr. Clifford C. Hubbard, who received his doctorate at Brown University in June, has been appointed professor of history and government at Wheaton College, Norton, Mass.

Mr. Charles R. Erdman, Jr., reader in politics at Princeton University, has been promoted to an instructorship, and Mr. Kenneth Bonner, instructor, has been granted leave of absence for a year in order to do advanced work in international law at Harvard University.

Mr. Jesse P. Watson, of the Brookings Graduate School, has been appointed to a position on the staff of the Ohio Institute, Columbus, Ohio. He will investigate problems in taxation in the state.

Mr. Harold H. Sprout, formerly assistant in political science at the University of Wisconsin, has been appointed assistant professor at Miami University for the coming year.

Dr. C. O. Gardner has been advanced to the rank of full professor at the University of Cincinnati.

Drs. John E. Briggs and Ivan L. Pollock have been promoted to associate professorships at the State University of Iowa, and Mr. Herman Trachsel, who received his doctorate at Iowa during the present summer, has been made an instructor.

Dr. Harold D. Lasswell, who received his degree at the University of Chicago in June, will spend the autumn and winter working with Dr. Elton Mayo, of the Harvard Medical School.

Dr. Charles H. Maxwell has been promoted from an assistant professorship to an associate professorship of political science in the Wharton School, University of Pennsylvania.

Drs. Rodney L. Mott, Jerome G. Kerwin, and Harold F. Gosnell have been advanced to the grade of assistant professor at the University

of Chicago. Professor Gosnell will return in September from fifteen months in Europe, where he has studied problems of voting and of election machinery. Professor Kerwin will presently enter upon a study of overlapping governmental jurisdictions in Chicago, as a part of the regional survey undertaken by the Local Community Research Committee of the university.

The department of political science at the University of Chicago has prepared a report on the conduct of the April primary in Chicago, based on the field observations of about three hundred students.

The political science classes in thirty-seven colleges and universities coöperated during the spring in conducting a mock election and referendum on the prohibition question. The ballots were distributed by the Illinois branch of the Proportional Representation League, and called for the choice of a council of seven to consider the enforcement situation in the United States. In order to determine what relationship, if any, existed between the candidates thus elected and the views of the voters, each student was asked to mark a referendum ballot on the question. The count of the ballots was held June 1 at the University of Chicago under the supervision of Dr. Rodney L. Mott, who acted as consultant in the conduct of the demonstration.

Harris political science prizes, offered to undergraduates of institutions in certain Middle Western states, for essays on designated topics, were awarded in May as follows: first prize (\$150) to Mr. Norman L. Meyers, University of Minnesota, for an essay entitled "Japan and International Labor Legislation"; second prize (\$100) to Mr. John E. Hall, Northwestern University, for an essay entitled "The operation of the Bicameral Principle in the New Mexico Legislature of 1925"; honorable mention to Mr. Thomas B. Roberts, University of Minnesota, for a paper entitled "Benito Mussolini".

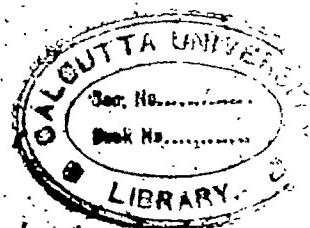
American scholars who are giving lectures or conducting discussions in the current session of the Geneva School of International Studies include Dr. Thomas J. Jones, Phelps Stokes Fund, on responsibilities and potentialities in Africa; Professor Alfred Longueuil, University of California, on some aspects of American life; Dr. James G. Macdonald, New York, on American foreign policy; Mr. David Hunter Miller, New York, on security and disarmament; Professor James Rogers, University of Missouri, on the influence of American investments abroad; and Professor James T. Shotwell, Columbia University, on disarmament.

A summer school designed especially for secondary school teachers of the social sciences was opened at Syracuse University on June 28. The curriculum and methods pursued were determined by two main considerations, one the explanatory approach to social phenomena and the other the integration of the social sciences. A weekly round table was held, all members of the staff participating while the students constituted the audience. Current problems and events were dealt with in an informal way, illustrating the benefits of approaching phenomena from a variety of angles. The staff of the summer session consisted of the following: Dr. Floyd H. Allport, Professor H. Duncan Hall, Benjamin B. Kendrick, Harold D. Lasswell, Richard H. Shryock, Malcolm Willey, Charles F. Remer, and Mr. W. E. Mosher.

The Cincinnati Bureau of Municipal Research, which has been inactive for a number of years, has been reorganized. The chairman of the board of directors is Mr. George H. Warrington, who is also chairman of the committee which conducted the survey of the government of Cincinnati and Hamilton County in 1924. The Bureau has employed Mr. John Blandford, Jr., as director, and he began work on June 1. Mr. Blandford was formerly director of the bureau of municipal research of the chamber of commerce of Newark, N. J.

At the third annual session of the Furman Institute of Politics, held at Greenville, South Carolina, June 22, 1926, lectures were delivered by Professor Carl J. Friedrich, of the University of Heidelberg, on aspects of German government; Professor A. N. Holcombe, of Harvard University, on state constitutions; Professor Victor J. West, of Stanford University, on the reform of the legislature; and Professor D. D. Wallace, of Wofford College, on the constitution of South Carolina. Round table conferences were conducted by all of these men, and also by Professor William S. Carpenter, of Princeton University. There were various other lectures and round tables.

Of much interest to students of politics and related subjects is the announcement made in June that the United States government will proceed at once with the construction of an archives building, at an estimated cost of \$6,900,000. The structure will fill a long-felt need, not only ensuring the preservation of documentary and other materials now too often subject to serious fire hazards, but supplementing the Library of Congress in making records available to scholars. Agitation for such a building has been going on for at least a quarter of a century, and with renewed energy since the World War.



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THE GOVERNMENT OF IRAQ

QUINCY WRIGHT

University of Chicago

Those who set up a new government usually have to compromise between the ideas current at the time, their own traditions, and the conditions of the territory and people to be governed. Ideas are likely to have more influence on the form than the substance, and imported traditions soon disappear unless control remains external. For a time, a system of government may be affected by such ideas and traditions, but if it lasts it is because it has become adapted to the physical, social, and psychological conditions of the region where it operates. These conditions, it is true, may be gradually modified by a government guided by philosophical ideas or foreign traditions. Such influences are, indeed, the cause of progress, but a government can safely follow them only if it makes large concessions to local conditions. The government of Iraq well illustrates the interplay of these three influences. It is a compromise of Wilsonian ideas, British traditions, and Iraq conditions.

The theoretical basis of the Peace Conference of 1919 was expressed in President Wilson's fourteen points and subsequent addresses. This basis had been formally accepted by the Allies and Germany in the agreement of November 5, 1918, before the armistice, and so legally superseded all conflicting agreements, secret or otherwise, with respect to Germany.¹ The Turkish and

¹ Correspondence between Germany and principal allied and associated powers, May 29, 1919, and June 16, 1919, 66 Cong., 1st Sess., Sen. Doc. 149, pp. 83, 101; Temperley, *A History of the Peace Conference of Paris*, I, 133-135, 417-420.

Austrian armistices, however, had been made earlier, and these states were not parties to the agreement of November 5. Thus, legally, the conference was not bound to apply these principles to them. Both Turkey and Austria, however, had expressly referred to the Wilsonian principles in asking for peace,² and the Allies, having propagandized them among the subject peoples of the two empires for war purposes, could not wholly repudiate them. Thus the doctrines of government by the consent of the governed, nationality, and self-determination, which had in fact become the liberal criteria of political progress in Europe during the nineteenth century, were taken to the East, to Africa, and to the Pacific, and were taken into account by the Peace Conference in providing government for the areas under its control.

Conditions in most of these areas precluded immediate independence. Principle precluded annexation. Experience precluded internationalization.³ Thus the "well being and development" of these peoples was recognized by the Covenant (Art. 22) as a "sacred trust of civilization." Their "tutelage" was to be intrusted to "advanced nations," who were to "exercise" it "as mandatories on behalf of the League of Nations." Differences were recognized in the stage of development of the peoples to be placed under mandate, and those formerly belonging to Turkey were to be accorded the highest degree of self-government. "Their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the mandatory."

Of the three mandated territories in this class—Palestine, Syria, and Iraq—the last has far the most self-government; in fact it alone has had its "independence provisionally recognized,"

² Austrian note, Oct. 7, 1918, Turkish note, Oct. 14, 1918, in *Official Statement of War Aims and Peace Proposals, Dec., 1918, to Nov., 1918*, Carnegie Endowment for International Peace, Pamph. No. 31, pp. 418-49.

³ Wright, "United States and the Mandates," *Michigan Law Review*, vol. 23, pp. 717-723.

as required by the Covenant. Palestine has remained under the direct administration of the mandatory, Great Britain, and a change does not seem immediately in prospect. In fact, self-government, which would imply Arab control, would be at present wholly incompatible with the maintenance of the "Jewish national home" required by the mandate. A legislative council, selected so as to prevent Arab control, has been offered, but rejected by the Arabs, though some such arrangement may eventually be put into operation. At present, legislation as well as administration and control of the higher courts are in the hands of British officers acting under authority of British orders in council.⁴

Trans-Jordan, which is part of the British mandate, has been excluded by the mandate from the Zionist provision and is in fact administered by an Arab government at whose head is the Emir Abdulla, son of ex-King Husein of the Hedjaz, and brother of King Feisal of Iraq and ex-King Ali of the Hedjaz. British control is exercised through a resident representative of the High Commissioner of Palestine, with mainly advisory powers, supported by the Arab legion under British command and a British air force. The inhabitants are in the main tribally organized, many of them nomadic, and the constitutional organization is primitive. The British keep a steady hand on finances and defense, letting Abdulla go pretty much his own way in other matters. Here there is considerable independence, though not much popular control of government.⁵

In Syria, which was put under French mandate in accord with secret treaties of the war, and in defiance of the "wishes" of the people, expressed to the King-Crane commission sent out by President Wilson during the Peace Conference, indirect government exists in theory but not in practice. The French planned to create states according to the religious and historic differences of inhabitants of this territory, and to combine them in a federation. The Lebanon, however, with a large Christian population, feared

⁴ See Report of the High Commissioner on the administration of Palestine, 1920-1925, British Colonial Office, pp. 6, 44-47; Wright, "The Palestine Problem," *Political Science Quarterly*, Sept., 1926.

⁵ Report on Palestine, 1920-1925, pp. 53-55.

absorption in a Moslem Syrian state. As the Lebanese Christians had alone favored French rule, they were given a separate organization, with a legislative assembly, and have now (1926) been accorded a constitution and president of their choice. Turkey compelled the retrocession of Cilicia in 1921, and the other states—the Alouite, Aleppo, Damascus, and the Jebel-Druse—have been at times federated and at times separated. Some of them have been given legislative assemblies, but these have seldom functioned. In fact, legislation and administration have been almost entirely in the hands of the French High Commissioner and French officials. Insurrection was sporadic until the summer of 1925, and has been continuous since. The recent High Commissioner, M. de Jouvenal, appears to have offered provisional independence for a united Syria (apart from the Lebanon), relations with France to be governed by treaty, but this has not been accepted by the Druse and Arab insurgents, who have no confidence in French good faith.⁶

In Iraq alone do the doctrines of government by consent of the governed, nationality, and self-determination make any approach to realization. Stimulated by serious insurrection in 1920, by parliamentary complaints of expense by the advice of Arab sympathizers like Colonel Lawrence and Miss Gertrude Bell, and by the need of a place for the Emir Feisal, just expelled from Damascus by the French, Great Britain abandoned the system of direct administration which had prevailed in Mesopotamia since the British occupation, recognized Feisal as constitutional king of Iraq, and signed a treaty with him on October 10, 1922. This treaty provided for British defense of Iraq, and the acceptance by Iraq of British advice and assistance. As originally drawn, it was to have been in effect for twenty years. A protocol of April 30, 1923, modified this to the period until Iraq shall become a member of the League of Nations, which may not be over four years from conclusion of peace with Turkey. As the treaty of Lausanne came into effect in 1924, the Iraq alliance would have ended in 1928. Further detailed agreements in

⁶ Leonard Stein, *Syria* (London, 1926); Wright, in *Current History*, Feb., 1926, pp. 687-693; Lybyer, *ibid.*, July-Oct., 1926, pp. 649, 819, 981, 150.

pursuance of the treaty were signed on March 25, 1924; and in January, 1926, in fulfillment of the League's award of Mosul to Iraq, the treaty was extended for twenty-five years.⁷

Feisal was not particularly popular with the people of Iraq, his election by a large majority was something of a farce, and the constitutional convention which ratified the treaty may not have fully represented Iraq sentiment. Nevertheless, in form the status and government of Iraq comply with the requirements of Article 22 of the Covenant. This was recognized by the League of Nations Council, which on September 27, 1924, formally accepted a document prepared by Great Britain and reciting the treaty as the mandate for Iraq.⁸ In conformity with the treaty, a constitutional convention was called which not only ratified the treaty but on July 10, 1924, approved an organic law of 123 articles.⁹

Thus the constitutional documents of Iraq are Article 22 of the League of Nations Covenant, the treaty of alliance with Great Britain and its amendments, the League mandate, and the organic law. These establish a complicated structure seeking to realize the ideals of the Fourteen Points and of Arab nationalism encouraged by them, with due consideration for British colonial experience and the conditions of Iraq. To these latter we must now turn.

Formal documents by no means determine the working of government. The traditions brought by those in actual control are of more importance. The British have developed traditions of administration in backward areas, but it was especially their forty years' experience in Egypt which served them in Iraq.

The first of these traditions is that of sending good men to the spot. In this the British are in notable contrast to the French. Not that Frenchmen as a whole are less able than Englishmen,

⁷ Great Britain, Treaty Series, No. 17 (1925), Cmd. 2370; Lybyer, in *Current History*, March, 1926, p. 925.

⁸ Iraq, Papers Relating to the Application to Iraq of the Principles of Article 22 of the Covenant of the League of Nations, London, 1925, Cmd. 2317; League of Nations Official Journal, Sept. 27, 1924.

⁹ Iraq, Letter from the British Government forwarding the Text of the Organic Law of Iraq, League of Nations, C 412, 1924, VI.

but they like to stay at home. Few Frenchmen of first-rate ability care to spend a large share of their lives in exile from Paris, and the government does not give large enough salaries to induce them to do so. In England, on the other hand, a traditional prestige attaches to colonial administration, and salaries are more generous.¹⁰ The British advisers to the Iraq government are undoubtedly able men, and perform a difficult task with efficiency and tact.

The second British tradition here significant is that of subordinating form to substance. If British administrators can make the government run the way they want, they are willing to dispense with the appearance of power. The way of doing this has been developed in the native Indian states, and especially in Egypt, where the legal position of British control was of a doubtful order. The consul-general had merely advisory powers, so far as law and treaties were concerned, though in fact he was supported by an army of occupation. This, however, would not have facilitated orderly government if it had been too ostentatiously paraded. The actual control was exercised through Britishers appointed by the Egyptian government, with powers generally limited to advising the responsible Egyptian officials. As Lord Cromer explains, they relied mainly on powers of persuasion.¹¹

¹⁰ Lord Cromer's opinion on the subject (*Modern Egypt*, II, 300) may be noted: "In countries such as India and Egypt, the best policy to pursue is to employ a small body of well-selected and well-paid Europeans. Everything depends on finding the right man for the right place. If he can be found, it is worth while to pay him well. It is a mistake to employ second or third rate Europeans on low salaries. They often do more harm than good. Public opinion generally condemns high salaries, but on this particular point the European administrator in the East will do well to follow his own judgment and not to be unduly influenced by outside criticism. It is worth while to pay something extra in order to secure the services of a really competent and thoroughly trustworthy official." The schedule attached to the Iraq treaty requires salaries of 2,500 to 3,500 rupees a month (\$10,000 to \$14,000 a year) for the higher British advisers. Officials of the fifth (lowest) grade receive 800 to 1,300 rupees a month (\$3,200 to \$5,200) a year. See also Lugard, "The White Man's Task in Tropical Africa," *Foreign Affairs*, Oct., 1926; Chirol, *The Occident and the Orient*, p. 211.

¹¹ "The work done by the Anglo-Egyptian official is, therefore, mainly the outcome of his own resource and his own versatility. If he is adroit, he can make the fact that the soldiers of his nation are in occupation of the country felt without

This is the method of British influence in Iraq. The treaty requires the king to appoint certain British advisers on contract, the terms of which are specified in the annexed agreement. Under these provisions advisers are attached to each of the ministries at Bagdad and to the administration of each liwa. The agreement provides that these officials "shall be in the service of the Iraq government and responsible to that government and not to the High Commissioner." They have no formal means of compelling the minister to accept their advice. Furthermore, they are under no obligation to follow the opinion of the British high commissioner in giving advice. In fact they keep in close touch with him, but consider their primary duty to Iraq and advise on their own responsibility, even when they differ from the high commissioner and the British government. These functionaries, who remain in the background and influence only through persuasion, are, as Cromer said of Egypt, the "motive power" of the government.¹²

The high commissioner does, it is true, have an absolute veto in certain important matters, and there is a British military force in Iraq; but in practice these powers of control are not utilized, the persuasion of the advisers proving sufficient. Continuance of this condition depends upon the ability of the advisers to make adequate plans, to persuade the native officials to accept these plans, and to yield to the latter all credit for success. This willingness to subordinate themselves has not become a tradition in French administration. The advisory system, though attempted in Syria, resulted in continuous friction, as the advisers, becoming impatient with the slow process of persuasion, were often inclined to administer directly, thus leaving the native official with the uncomfortable feeling of being a fifth wheel.¹³

flaunting their presence in any gross fashion before the eyes of his Egyptian superior. As a matter of fact, the most successful Anglo-Egyptian officials have been those who have relied most on their own powers of persuasion, and have rarely applied for diplomatic support." Cromer, *op. cit.*, II, 283.

¹² *Ibid.*, II, 279.

¹³ The Count de Gontaut-Biron, an officer on the staff of the French army in the Levant, points out that a large proportion of the officers sent to Syria came "imbued

Finally, the British tradition has been to develop policies by a close study of the facts of the situation rather than by the application of abstract principles of government developed, perhaps, in a totally different environment. Thus the British have seldom assimilated their colonies and protectorates. British administrators have preserved their own manners and customs, have lived aloof, and have not intermarried with the natives as have the French, Spanish, and Portuguese. But, while keeping their own culture distinct, they have not tried to impose it on the natives. They have aimed to develop native institutions which seemed useful rather than to substitute their own.

This policy, apparently favored by the League of Nations Mandates Commission,¹⁴ tends to develop native civilizations according to their inherent tendencies, and is to be contrasted with the policy of assimilation exemplified by Spain and Portugal in Latin America and by France in Algeria.¹⁵ The tradition employed in Iraq has undoubtedly given the British an advantage over the French in Syria. The leading complaint in the latter territory is that the French are colonizing, not mandating.

with the habits and methods of Moroccan administration. These were not at all applicable in Syria. Not to speak of the much Europeanized Christians, the Moslems of Syria have a mentality absolutely different from that of the Moroccans and more evolved. From these new arrivals, whose preconceived ideas were aggravated by inexperience, there too often escaped unfortunate expressions scarcely favorable to the Syrians and their country, and at the same time humiliating, which were resented with a particular vivacity by one of the most susceptible peoples in the world."

R. de Gontaut-Biron, *Comment la France s'est installée en Syrie* (Paris, 1923), 226, quoted by Stein, *op. cit.*, 42.

¹⁴ League of Nations, Permanent Mandates Commission, Minutes, 2nd Sess., p. 86; 6th Sess., pp. 25, 35-37; Report 8th Sess., p. 5, 12.

¹⁵ The British in colonial New England tried to educate the Indians in English and to Christianize them (James Alton James, "English Institutions and the American Indians," *Johns Hopkins University Studies in Historical and Political Science*, 12th Ser., 1894, p. 515), but were less successful in their efforts at assimilation than the Spanish in Mexico and Central and South America, where Indians and Mestizos of essentially Spanish culture form a majority of the population today. For exposition of the British point of view, see Lugard, *Dual Mandate in Tropical Africa*, and of the French point of view, "Argument of Council in Tunis Nationality Decrees Case," *Publications of the Permanent Court of International Justice*, Series C, No. 2, pp. 109-242, and for comparison of the two, Bell, *International Relations* (N. Y., 1925), 358-364.

By this the Arabs mean to register their protest against Gallicization. They are proud of their language and their culture, and look with hostility upon an administrative policy which will gradually destroy its distinctiveness. The French attempt to introduce their language in the schools, and neglect to learn Arabic themselves; they introduce laws and regulations on a French model; they inculcate French literature, manners, and customs, and develop French architecture.¹⁶ The British, on the other hand, leave Arabic as the language of elementary instruction, learn that language themselves, study the indigenous customs and laws, and seek to understand the spirit of the people and to preserve its characteristic expressions.

It is not to be supposed that the British officials lose sight of imperial interests. Economic resources like Mosul oil are made available for British investors and producers. Markets are opened up for British goods. Strategic positions are strengthened. The British colonial administrator, however, does not regard expansion of British culture as an imperial interest. He is content to leave the native manners, customs, and religion intact, so far as compatible with security, order, and economic development. The French administrator, on the other hand, fully appreciative of French civilization, fears he is failing in duty if he neglects to pass it on to the less fortunate natives under his charge. Like the conquistador in New Spain, he is a missionary, if not of Christianity, at least of civilization, which to him means French civilization.

Undoubtedly the British tradition of able administrators willing to subordinate themselves to native *amour propre* and to respect native culture has made the government workable. The principles incorporated in the constitutional documents, whatever may be their ultimate effect, at present render that task more difficult. Indirect administration of a backward area is more laborious and less efficient than direct.

More difficulties, however, have been presented by the conditions in Iraq. Upon adoption of the present régime the frontier was largely undefined and menaced by hostile neighbors. The

¹⁶ Wright, in *Current History*, Feb., 1925, pp. 687-693.

country had not recovered from war devastation, and was in dire poverty. The people had no experience in self-government, were divided into hostile factions cemented by a most rudimentary sense of nationality, and many of them had recently been in revolt against the British. With need of an army of defense, inadequate taxation resources with which to support it, and an inexperienced, disillusioned, and disunited public opinion on which to rely, the auspices seemed unfavorable for experiments in constitutional government. Incidentally, it may be noticed that the anxiety of Parliament and British public opinion about the expense of the undertaking did not reduce the difficulties.

The frontier question may not have been wholly disadvantageous. Tribal attacks on the desert frontier were frequent, but Ibn Saud of Nejd has devoted his attention mainly to the western side of Arabia, and his tribesmen have never really menaced the independence of Iraq. The Mosul question, however, was looked upon as a serious danger. With Mosul in Turkish possession, no natural barrier would stop an advance to Bagdad. Economic questions, such as oil, headwaters for irrigation, and supplies of road-making material and grain, played a part in the anxiety of Great Britain and Iraq over this area. But security appears to have been the most important consideration.¹⁷ The very anxiety of the Iraqi, however, coupled with full appreciation of their inability to withstand Turkey alone, induced them to submerge their grievances against Great Britain and to support her unitedly in her successful diplomatic contest for Mosul before the League of Nations. It may be that, with that question settled, suppressed antagonism of the people among themselves and against the British will emerge, although there have been no signs of such a development as yet.

The frontier difficulties, however, have made military forces necessary. The British have an army of some six thousand and an air force of four thousand in the territory, all paid for out of the British treasury. An Iraq army of eight thousand has been organized, and under the tutelage of British officers it gives an

¹⁷ Wright, "The Mosul Dispute," *American Journal of International Law*, July, 1926.

appearance of considerable efficiency. The barracks and drill grounds are clean and the men appear well selected, alert, and disciplined. In the general slovenliness of the East the writer remembers with pleasure his inspection of the Army Training Center accompanied by Nuri Pasha, the able deputy commander-in-chief. The troops have exhibited military qualities in putting down some Kurdish troubles in Ruwandiz and Sulaimaniga.¹⁸ It is planned to increase the number of British officers, with a corresponding enlargement of the Iraq forces to twenty thousand.¹⁹ In addition to the Iraq army, there is a police force of six thousand under the department of the interior. Boy scout organizations are flourishing and drilled, and are looked upon as a preliminary military training school. These military organizations, however, have meant a heavy burden of taxation, in spite of the British supply of training officers beyond those specified by the treaty.

Economic recovery is being promoted by irrigation, sanitation, transportation, and oil development. The Iraqi have considerable hope of royalties from the Turkish Petroleum Company, which was given a concession on March 14, 1925.²⁰ In the long run, however, agriculture is probably more important. In the Babylonian and Persian periods extensive irrigation canal systems traversed Mesopotamia. These steadily declined under the Arab and Turkish régimes. A concession for extensive irrigation of land for cotton culture was given to an Iraq company on July 12, 1924. Because of the expense of irrigation works and the poverty of the country, progress in this development will probably be slow. Completion of the railway between Sharqat on the Tigris and Nisibin on the Turkish-Syrian frontier would complete the Bagdad railway from Constantinople to the Persian Gulf, and would undoubtedly lead to a considerable commercial develop-

¹⁸ Great Britain, Report on Administration of Iraq, April, 1923-Dec., 1924, p. 87.

¹⁹ *Current History*, Jan., 1926, p. 609.

²⁰ For twenty years after completion of a pipe line for oil export, the Iraq royalty is 4 shillings gold per ton. After that the royalties are to be modified according to the growth of profit or loss. Turkish Petroleum Co. Ltd., Convention with the Government of Iraq, Art. 10.

ment. The British have constructed several pontoon bridges across the Tigris and Euphrates. Roads are not necessary in dry weather, as motor transport is possible over the flat, hard plains. If Syria becomes peaceful Bagdad will become an important entrepôt for passenger and fast express service by motor from India to the Mediterranean. In wet weather, Bagdad is knee-deep in mud. Road-making is expensive, as materials have to be floated from the foot hills of the Mosul area to the alluvial plains by raft. Lack of sanitation, with consequent heavy infant mortality and sickness, is an economic handicap against which some slight progress is being made. These improvements take time, but Iraq is clearly capable of substantial economic development, and, with a stable administration, a steady increase in wealth may be expected.

The defense and economic problems can be met by patience and technology, supplied by the British advisers. The condition of the people, themselves, however, offers more serious obstacles to self-government. The Arabs remember with pride the great days of the Hashimite, Omayyad, and Abbasid caliphates, and commemorate them in the green, white, and black stripes of the Iraq flag. But historians recall that the success of these dynasties was due to foreign advisers. Their success does not prove the political capacity of the Arab people in the past, and since the Turkish conquest the Arabs have had no opportunity to gain such capacity by experience. The masses are illiterate and politically unconscious. Can they be made into citizens?

Education is being developed with great enthusiasm under the director of education, Satah Beg. New public schools have been established and the normal school is unable to meet the demand for teachers. Twenty-two thousand pupils are in the public schools in Iraq, about one in a hundred of the population, and as many again in private schools.²¹ The Waqf, or Sunni Moslem religious foundations, are being utilized for education in the mosques to some extent with the advice of the British adviser for Auqaf, Mr. Cook. Christian missions carry on con-

²¹ For purpose of comparison, in Mexico about seven per cent of the population is in school, and in the United States about twenty-two per cent.

siderable education, although some find that their home boards will not permit the development of agricultural and industrial education to the extent desired by the missionaries in the field. Sixty-two night schools, with 7,000 pupils, have been organized by a voluntary Arab society.²² The Arab child learns rapidly, especially languages, but seems to acquire mental dexterity rather than solidity of judgment. Many observers think that attention should be given to agricultural and industrial training rather than to liberal education. There is a fear that a plethora of educated Arabs with little opportunity to use their learning except in government will cause undesirable political agitation or an exodus of many of the most intelligent from the country.²³ The excellent American educational institutions in Syria have undoubtedly educated a good many Syrians out of their own country.

Apart from formal education, efforts are made to stimulate civic spirit by frequent parades of boy scouts, police and military organizations, and by efforts to attach loyalty to the person of the king—no easy task, in view of his character as an interloper, and his supposed subordination to British policy. Civic spirit is also developed through propagandizing interest in politics, parliament, and national history, and through advertisement of the benefits of roads, bridges, security, etc., conferred by the government. These efforts are not without effect. Informed opinion seems convinced that civic coherence and national pride have increased steadily in the past five years. This, however, is most obvious among the city dwellers of Bagdad, the center of Arab nationalism. The more commercially minded people of Basra take little interest in politics, and would probably be

²² These schools were organized by the Nationalist leaders, and there is some fear that they may be used for political propaganda. They receive some financial aid from the government. The students are required to subscribe to the following five principles: 1, to love their country; 2, to be clean; 3, to learn throughout life; 4, to be truthful; 5, to love the good and do it. Teachers are instructed to advise students to take the best from European civilization, and to recognize the necessity of teaching women. After digesting these principles students are instructed in reading and writing Arabic, arithmetic, science, history, geography, and English.

²³ Great Britain, Report on Iraq, 1923-24, pp. 215-216.

gladly rid of the expense of parliamentary government. The Kurds, who dominate the Mosul area, despise the Arabs, although they prefer the British mandate to Turkey. On the whole, they wish security from their more warlike brethren in Turkish Kurdistan, and will probably be content with the considerable autonomy in education and administration allowed them.²⁴

Probably the most marked division of opinion is that between the city dwellers and the tribesmen. The latter, though forming seven-eighths of the population, are controlled by the sheiks whose authority the government sustains. Justice is administered among them by tribal arbitration rather than judicial process, and their interest in politics is not great. However, the tribesmen are given an opportunity to vote in the elections, and a considerable number avail themselves of it.²⁵

The country is about evenly divided between Sunni and Shiah Moslems, the latter being mostly south of Bagdad and the former north. The Shias are more fanatical, and are controlled by their mullahs, who discourage education for the masses. It is generally considered expedient to have at least one cabinet officer a Shiah, though it is hard to find one with the necessary equipment. The king is a Sunni, which adds to his difficulties with the rival sect. There are some forty thousand Jews in Bagdad whose ancestors came with the Babylonian captivity. They are an important commercial element, have little Zionist sentiment, and are respected by the Arabs.

Though these geographic, economic, racial, and religious divisions militate against the sense of nationality, the situation in this respect is much less serious than in Syria or Palestine. These divisions have not furnished a basis for political parties,

²⁴ Until 1924, Sulaimanya, which is almost entirely Kurdish, was separated from Iraq and directly under the High Commissioner. "With the treaty looking toward termination of the British mandate in four years, a administration was set up which, while respecting Kurdish national susceptibilities, should definitely unite this division with the Iraq state, under a system of local control." Great Britain, Report on Iraq, 1923-1924, p. 29. The League's award of the Mosul area to Iraq recommended local autonomy for the Kurdish areas. Right, "The Mosul Dispute," cited above.

²⁵ Great Britain, Report on Iraq, 1923-24, pp. 14, 15.

and perhaps it is desirable that they should not. The illiteracy, lack of civic sense, and scarcity of equipped leadership raises a doubt in some minds as to the success of parliamentary institutions. The British advisers undoubtedly look forward to elections and sessions of parliament with misgiving. Nevertheless the actual operation of these institutions to date has been successful.²⁶ Under conditions which appeared most inauspicious, the British advisers and the Iraq government have so far kept constitutional institutions going.

We may now glance briefly at the machinery of the government itself. Article 22 of the League Covenant is less specific with regard to countries under A than under B and C mandates, but the mandate and the Iraq treaty contain most of the guarantees found in other mandates. Thus Great Britain assumes responsibility for the integrity of Iraq's territory, for the making of extradition agreements, for the protection of the rights of foreigners and minorities, for maintenance of the open door for trade, missionaries, and archaeologists, for reporting annually to the Council, securing Council consent to any modification of the treaty, and inviting Council decision on further British responsibilities under Article 22 of the Covenant upon termination of the treaty, and for submission of controversies arising out of the treaty to the Permanent Court of International Justice upon failure of negotiation. In addition, Great Britain agrees to provide Iraq with necessary advisers and military and financial support, to assist her in foreign relations and in gaining admittance to the League of Nations; while Iraq agrees to appoint foreign advisers only with British consent and "to be governed by the advice of his Britannic Majesty, tendered through the High Commissioner, in all important matters affecting the international and financial obligations and interests of his Britannic Majesty for the whole period of this treaty."²⁷ The meaning of this is a little obscure, but apparently it makes British advice compulsory in practically all international and financial matters. By Article I of the mandate Great Britain assumes toward

²⁶ *Current History*, Feb., 1926, p. 788.

²⁷ Art. 4 of treaty.

members of the League "responsibility for the fulfillment by Iraq of the provisions of the said treaty of alliance." Any international and financial obligation of Iraq would be likely to affect this treaty,²⁸ and so would be an international obligation or interest of Great Britain. The obligation especially in mind, however, was Iraq's share of the Ottoman debt, for which she was made responsible by the treaty of Lausanne.²⁹

The organic law provisioned by Article 3 of the treaty, and adopted by the Iraq constituent assembly on July 10, 1924, gives Great Britain ample opportunity to exercise the control of Iraq's policy necessary to meet her responsibilities. Thus all laws and ministerial orders must be submitted to the king, who has an absolute veto (Arts. 62, 65), and consequently an opportunity to prevent action contrary to the advice of the British High Commissioner. Financial measures can be only initiated by the minister of finance (Art. 100), thus affording the British advisers a voice before such measures are considered by Parliament. Measures "for the fulfillment of obligations arising out of treaties" may become legal upon the King's signature without parliamentary consent, and other emergency measures may become temporarily valid in this way during parliamentary interims (Arts. 260, 102, 106). The existing budget may be continued by the ministry if Parliament fails to pass a new one (Arts. 102, 107). Thus parliamentary control of ministers through withholding supply is impossible, though the organic law provides that "ministers of state shall be responsible to the Chamber of Deputies jointly in matters which concern the ministries and severally in what concerns their respective ministries." A further provision, however, permits eight days' delay before a final vote on the question of confidence (Art. 66).

Another check on parliamentary sovereignty is the establishment of a high court consisting of the president and four senators

²⁸ See especially Arts. 8, 11, and 15 of treaty, which would inevitably be affected respectively by almost any conceivable political treaty, commercial treaty, or financial measure.

²⁹ Great Britain, Treaty Series, No. 16 (1923), Cmld. 1929, Art. 48. See also Art. 17 of Financial Agreement between Great Britain and Iraq, March 25, 1924. Great Britain, Treaty Series No. 17 (1925), Cmld. 2370.

and four senior judges, to try political offenses and to "decide questions regarding the interpretation and the constitutional validity of laws." On this point decisions require a two-thirds vote (Arts. 81, 82, 83, 85).

The institutions of government follow the usual model of parliamentary governments. There is an appointed senate of twenty (Art. 31), an indirectly elected chamber of one to every 20,000 male Iraqi (Art. 36), a ministry responsible to the chamber (Art. 66), and the requirement of ministerial counter-signature of royal acts (Art. 27). There is the usual bill of rights (Arts. 5-18), and civil, religious, and special courts are provided (Arts. 68-89), as well as an administration for the local areas with the requirement that municipal and administrative councils shall be established in the towns and districts (Arts. 111, 112). Foreign affairs, war and peace, pardons and amnesty, and convocation, adjournment, prorogation, and dissolution of Parliament are vested in the crown, though treaties require approval of Parliament (Art. 26). The constitution may be amended after five years by vote of two-thirds of each of two successive assemblies of the Chamber and Senate, with approval of the king (Art. 119).

The king, though theoretically a constitutional monarch, might be obliged to use his veto contrary to ministerial advice, upon advice of the British High Commissioner. As has been noted, the present king was not popular on arrival, and though his popularity has probably increased, his position is a difficult one. He must keep in favor with both the British government, on which he depends at present, and the Iraq ministry and parliament, on whose loyal support the ultimate success of his dynasty must rest. He is an industrious worker; some think he is inclined to interfere too much in politics and administration. Others point out that the mass of the people expect a king to be an oriental despot whose word produces immediate results. Constitutional monarchy is unknown to them. Thus the limitations on his power make it difficult for him to attract and hold popular respect and loyalty.

Parliament has thus far behaved with reasonable decorum. Its debates, which are generally public, are published in the

official gazette, *Lal Waqai Lal Iraqiah*, and are read with interest by the literate public, and often by them aloud to the illiterate, who form in groups for the purpose. There is undoubtedly less political interest in the country than in the city.

Organized political parties, however, have not yet emerged. The economic, geographic, racial, and religious divisions of the people have not proved a party basis, and perhaps it is undesirable that they should. Such rudimentary parties as there are center about personalities, the ins and the outs. The present government, with Abdul Muhsin Al Sa'dun at its head, is supported by the Progressive party and opposed by the Nationalist party, headed by Yassin Pasha, a former premier, who urges a more rapid, though not an immediate, termination of British control. The development of political parties based on something other than personal ambition will be a slow process in the East. Politics there consists of personal intrigue to an even greater extent than in western countries, and this tendency is reflected by the native press, which traffics especially in scurrilous personalities and blackmail.

The Bagdad *Times* and the *Times* of Mesopotamia (Basra) have the largest circulation (over 1,000 each), have sections in both English and Arabic, are under British control, and consistently support British policy. *Al Aram Al Arabi* (Arab World), the next largest, is non-political. *Al Ittihad* is the government paper; it lives on government subsidies, and always supports the ins. *Istiqbal* (Independence) has a more nationalistic view, and has been closed eleven times, for attacking either the government or the French in Syria. The British seem to have had nothing to do with these limitations upon freedom of the press, but native governments realize that considerable press control is necessary. *Al Mufid* (The Useful) is a blackmailing sheet much read. The nationalists have been planning a regular opposition paper to be called *Ni Ta Ul Shaab* (The National Voice), but the writer has not heard of its actual appearance. *Al Mowal*, printed in Arabic in Mosul, pursues an opportunist policy, from the Mosul point of view, and *Dijari Kurdestan* (the Kurdish Country), appearing

occasionally in the Kurdish language, represents this distinctive attitude.

Lord Cromer called the legislative assembly "the least useful and efficient" of the Egyptian institutions, thought it "too much in advance of the requirements and political education of the country," and considered that "no real harm would be done if it were simply abolished."³⁰ Officials in Palestine congratulate themselves on the absence of a native assembly,³¹ and in Iraq one British adviser told the writer that "parliament will be the greatest obstacle to progress." "It has been well behaved," he said, "and in control of moderates, but there is danger that extremists will take the lead and moderates subside altogether." Political fatalism of moderate men leaving politics to extremists is, next to personal intrigue and corruption, the great obstacle to parliamentary government in the East. In general, however, the British in Iraq think the educational value of Parliament will more than offset its disadvantages, and commend its success, which they think has been greater than that of any other parliament in the East. As has been noted, Parliament is seriously limited in its powers because of its incapacity to withhold supplies, but in practice both the Iraq government and the British advisers prefer to persuade rather than to override it. As long as British responsibility under the mandate remains, complete parliamentary government is not likely.

³⁰ Cromer, *op. cit.*, 278.

³¹ One official in Palestine told the writer: "In out of the way countries like Trans-Jordan and Iraq, you can set up a native government, give them advice, and let them go. But if you want progress, you must have direct administration. That is the only way you can get really good administrators." A Lebanese administrator thought: "The people need military government. After years of oppression and misery, they cannot govern themselves. They have the Oriental mind which puts vanity and pride ahead of work and economy. They must be disciplined to work before they can be trusted to self-determination." A French official in Syria said: "France is met by a dilemma. If she gives self-government to the people subject only to her advice, as required by the mandate, corruption and the archaic feudal land system of the Turkish régime will continue. But if she exercises the amount of control necessary to promote social and economic progress, she is accused of colonizing and not mandating." He thought a path might be found between the two horns of the dilemma.

The ministers have got along admirably, profiting by tactfully given advice of their British advisers. But sessions of Parliament present peculiar difficulties. Under the stress of parliamentary heckling, ministers inexperienced in such situations are likely to commit themselves in an unfortunate manner. Though such commitments may be contrary to their own as well as the advisers' better judgment, having been publicly made they are difficult to evade. On matters within the British reserved veto, especially those involving financial burdens of doubtful justice, like the Ottoman debt, dangerous conflicts between Parliament and the British may arise, but have not done so as yet. The British control, as has been noticed, is applied by way of advice at various stages of the legislative process; hence crises can hardly arise out of a clear sky.

Parliament cannot consider financial matters except on suggestion of a minister who has been fully primed by British advisers. If an unwelcome debate is started in Parliament, the ministry is likely to use its influence in accord with British advice. Consequently it would rarely happen that parliamentary action would send a bill opposed by the British to the king and make it necessary for the High Commissioner, who is the only official directly responsible to the British government, to consider advising his veto. The High Commissioner has contact with the king alone, and his intercourse is of a diplomatic character. Thus even if the High Commissioner should have occasion to interpose his compulsory advice, responsibility for the veto would rest immediately with the king. British control, though effective, is invisible. In this respect it resembles the "boss" system in the United States, but it differs in being defined and limited by the terms of written instruments open to the world.

In matters not within the High Commissioner's ultimate veto, British power is limited to advice, but here also advice is available from the beginning to the end of the process. The advisers are in contact with their ministers in detail as well as in important matters, and all decisions of the cabinet have to go to the king. The latter has to get the advice of the High Commissioner before

he signs, although in matters not reserved by the treaty he is not obliged to follow it.

Judicial administration presents extraordinary difficulties in the East, because of the ubiquity of corruption, the inadequacy of legal education, and the archaism of the law. European judges in the courts seem the only way of avoiding the first difficulty. The treaty provides that in cases involving foreigners some of the judges, but not always the majority, shall be British. It was only in consideration of such a clause that the powers would concede the abolition of extraterritoriality. The United States, in fact, has not yet concluded a treaty relinquishing this privilege with respect to Iraq, as it has with respect to Palestine and Syria, though negotiations are in progress.

Agreements attached to the treaty of alliance require the president of the court of appeal to be a Britisher if requested by the High Commissioner, and authorizes the appointment of other British judges, of which there are in fact a considerable number. Nevertheless, there has been criticism even of the court of appeal. A case involving lands of the Bahais, a Moslem sect most unpopular with the Shias, was decided in 1925 with doubtful justice by a court of five, the two British judges being in the minority. There was not sufficient evidence of corruption, and the Arab judges' view of the law was not impossible; nevertheless it was suspected that political influence was brought to bear.

The high court for political offenses, impeachment, and determination of the validity of legislation, constituted as it is partly of senators and partly of judges, may bring unfortunate political entanglements to the judiciary. The French system of administrative law prevails. Special courts are provided for cases involving officials. The Diwan Khas, composed of the president and three members of the court of cassation and three senior administrative officials, interprets laws and regulations other than the organic law.

Legal education is being developed, but the Arab mind seems not to take kindly to orderly judicial procedure. There is a tendency for Arab judges to hear bits of evidence on several cases before any one is finished, and to follow peculiar rules of

evidence. Arab lawyers, I was told, can seldom draw up a legal document with the necessary precision. A British official said "the main difficulty in the courts is Arab inefficiency rather than corruption."

The law, which in substance is based on Moslem traditions and in form on the French civil code of 1807 as taken over by the Turks, has not been kept up to date by legislation, and is wholly unsuited to modern economic conditions. The law of personal status and succession is based on the Koran, and administered by the Sharia courts under a Sunni or Shiah Qadhi, according to the majority of the population; and occasionally conflicts of jurisdiction arise with the civil courts. The Christian and Jewish communities have these matters decided by communal spiritual councils of their own sect.

The criminal law is full of concepts strange to Europeans. Thus a man who, while walking with his gun, happened to see his enemy, took deliberate aim, and fired without success, was found guilty of "attempt at manslaughter." The malice necessary to convert manslaughter into murder requires, in Arab opinion, not merely premeditation as defined by common law, but deliberate preparation. If it had been proved that this man formulated the intention of hunting his enemy and killing him when he took his gun from the house, he would probably have been found guilty of "attempt at murder." Arab law seems to regard the sight of an enemy as sufficient provocation to rebut any presumption of malice, thus giving a certain recognition to the persistent feuds.

Among the tribes, feuds are so recognized that the ordinary course of law is wholly inadequate. Mere punishment of the criminal in an inter-tribal murder would not stop the blood feud. To do this, it is necessary to have the agreement of the sheiks of the two tribes, accompanied not only by adequate punishment but also by money payment. Thus such cases are settled by tribal arbitration. Ordinary rules of evidence are dispensed with. The word of the sheik of the delinquent tribe is accepted as to the member of his tribe to be punished, and a money payment is arranged by agreement. In this way feuds can be stopped. Because of the desire of the administration to

accustom the regular judges to formal rules of evidence, this informal process is carried on by special arbitration courts.

The Iraq government, with its king, parliament, ministry, and courts, functions with apparent independence, although the invisible British control is, of course, recognized. The supervision of the League of Nations, however, is not even recognized by the Iraqi—in fact the British administration, on finding that the word “mandate” was unpopular among the Arabs because of its association with African tribes of a lower civilization, with French methods in Syria, and with broken promises of a united Arab state, propagandized the notion that the recognition of Feisal’s government terminated mandatory relations. This, of course, was not recognized by the League of Nations, and in fact the document approved by the Council on September 27, 1924, is a mandate in both form and substance. Great Britain is thus in the rather ambiguous position of having a mandate for Iraq *vis à vis* the League, and not having one *vis à vis* Iraq: an ambiguity evident in Lord Parmour’s extraordinary speech before the Council on September 19, 1924, in which he said: “Iraq has advanced too far along the path laid down in Article 22 of the Covenant for the particular form of control contemplated in that article to be any longer appropriate. . . . The treaty and connected documents place the British government in a position *vis à vis* Iraq to discharge their obligations toward the League. . . . It will be found that the various documents taken together cover all the points embodied in the original draft mandate.”³² Though some doubts were expressed in the seventh session of the mandates commission, the final opinion of this body, as well as the documents, make it clear that Great Britain has a mandate in Iraq.³³ In fact the form of the documents seems to comply more accurately with the terms of Article 22, Par. 4, of the Covenant than is the case with any other Class A mandate.

In practice, the League’s supervision has hardly come into effect for Iraq. The mandate was not confirmed by the Council

³² League of Nations, *Official Journal*, vol. 5, pp. 1314-1315.

³³ League of Nations, Permanent Mandates Commission, *Minutes*, 7th Sess., pp. 10-14, 123.

until the fall of 1924. The first consideration of the mandatory's report by the mandates commission was set for the fall of 1925, but because of the pendency of the Mosul dispute before the Council at the time and the danger of prejudicing this question if the League discussed the administration of Iraq, one-third of which was within the disputed area, it was thought advisable to postpone this matter.³⁴ Three reports on Iraq have been made by the British administration to the Colonial Office, and before this a review of the civil administration of Mesopotamia was submitted to the House of Commons.³⁵ The suggestion has been made by members of the opposition party in Iraq that reports to the League should not proceed from the British alone but should previously be submitted to the Iraq parliament. In line with this suggestion, the British have proposed to attach a representative of the Iraq government to the delegation that appears before the mandates commission at Geneva, and the mandates commission has not objected to this suggestion, though inclined to insist that Great Britain alone is responsible to the League.³⁶ The League's functions cannot be properly exercised without full access to the facts in mandated territories. Lack of information, except such as the mandatory sees fit to submit, has been a serious weakness of the supervision. A right of petition, it is true, exists, but is not very effective in view of the inability of the commission to get authoritative information about the petitioner otherwise than through the mandatory, and the natural unwillingness of petitioners to get into disfavor with the administration of the territory where they reside. On the other hand, petitions from outside the territory are likely to lack weight because of the irresponsibility and inadequate information of the petitioner. Personal contact by the mandates section of the League Secretariat, or official investigation by the mandates commission

³⁴ *Ibid.*, p. 98.

³⁵ Great Britain, Review of the Civil Administration of Mesopotamia, 1917-20, by Miss Gertrude Lothian Bell, Cmd. 1061 (1920); Report on the Administration of Iraq, 1920-22, Colonial Office (1922); *ibid.*, 1922-25, Colonial No. 4 (1924); *ibid.*, 1923-24, Colonial No. 13 (1925).

³⁶ League of Nations, Permanent Mandates Commission, *Minutes*, 7th Sess., p. 94.

itself, or by the Council on extraordinary occasions, has been suggested.³⁷ But it appears that in mandated countries where a native government has been set up, comments on the mandatory's report by the parliament, including the opposition, in that government might supply a need. Comments from such a source would be of more weight than petitions from unknown persons. There is, in fact, a precedent for such comments in the annual reports of the Zionist organization, commenting on the British report for Palestine. Comments from a native parliament would be more informing than comments from the native executive, which is in closer contact with the mandatory.

It is still too early to formulate final judgments upon either the adequacy of the government of Iraq for that country or the contribution of the form of government there exemplified toward solving the international problem of backward areas. A few observations, however, may be made. From the purely material point of view, there has been undoubted progress in Iraq since 1921. Order and security have prevailed and production has steadily increased.³⁸ Has this material progress benefitted the people of Iraq? Taxation has been heavy, but it does not appear that unreasonable profits have gone either to foreign governments or to merchants. The surplus revenue not required for defense and administration has been spent for education, sanitation, transportation, and other improvements of general benefit. The material benefits of good administration seem to have remained in Iraq.

Finally, we may ask, has this increased prosperity improved civilization? Standards for comparing civilizations are wanting. No visitor to Iraq would say that the average happiness of the people equals that of New York, London, or Paris. The children one sees in the streets seldom smile, are often blind or diseased, and always dirty. In art, literature, and science, Iraq certainly cannot compare with Belgium, Norway, or Czechoslovakia, or even with many of the ancient civilizations on whose ruins it

³⁷ *Ibid.*, p. 123-134; Wright, "The Bombardment of Damascus," *American Journal of International Law*, vol. 20, p. 279.

³⁸ *Statesman's Year Book*, 1926, p. 186.

stands. The soft crumbling brick of modern Bagdad, little of which antedates the seventeenth century, compares poorly today with the erect, hard brick walls of Babylon, covered with bas-reliefs, and, except for the crumbling of the glaze, as firm as when built by Nebuchadnezzar twenty-five hundred years ago. Nor can Iraq compare with Europe or the United States in self-government, justice, or capacity of the people to coöperate for common ends. Few acquainted with the situation think the institutions now operating would long continue if deprived of British advice and assistance. But greater prosperity, more general education, and stable institutions encouraging native responsibility and self-government offer the Iraqi a most hopeful opportunity to develop their civilization. The theory espoused by the League of giving backward areas the opportunity to develop themselves is in actual effect in Iraq more than in any other mandated area.

Imperialism as practiced by European nations in Africa, Asia, and the New World has often developed backward areas rapidly, but has frequently exploited or destroyed the natives, closed the door to world commerce, and led to dangerous rivalries among the imperial nations themselves as the available amount of exploitable territory has declined. On the other hand, complete self-determination of backward areas, as manifested during the past century in tropical Latin America and certain countries of Africa and Asia, has often led to insecurity, injustice, and decline in economic production. Furthermore, direct international government in the few cases where it has been tried, as in Samoa, Spitzbergen, and the New Hebrides, has brought bad administration and international rivalry and has generally ended in division of the territory.

The system contemplated by the Covenant seeks to preserve the good and eliminate the bad of each of these methods. By the theory of trusteeship for purposes described in concrete documents, it seeks to preserve the technical advantage of imperialism with elimination of its abuses. By the theory of tutelage of adolescent peoples in defined stages of development, it seeks to gain the benefits of self-determination for the sufficiently

mature without its risks for the unprepared. By the theory of mandates under the League of Nations, it provides international supervision to assure the good faith of the trustee and the tutor, without the technical disadvantages of direct international government. Operation of the theories of trusteeship and tutelage are best illustrated by Iraq. The documents defining the powers of the trustee are more elaborate than in the case of any other mandated territory. The people have advanced further out of tutelage toward self-government than in any other mandated community. This has happened without as yet any active supervision by the League. The further history of Iraq will test the soundness of the Covenant's theory of the proper relation between advanced and backward peoples.

SELECTION AND TENURE OF BUREAU CHIEFS IN THE NATIONAL ADMINISTRATION OF THE UNITED STATES II¹

ARTHUR W. MACMAEON

Columbia University

II

The Public Health Service, the Coast Guard, and (under very recent legislation) the Coast and Geodetic Survey constitute a special group of bureaus, distinguished by the fact that their heads are selected as a matter of rule from groups of higher subordinates who are originally admitted by non-competitive examinations and advanced under the closed systems of commissioned personnel peculiar to these services.

In the case of the surgeon general of the Public Health Service, the statutes² say merely that he shall be appointed by the President with the consent of the Senate. A regulation of the service, however, provides that the surgeon general shall be selected from the commissioned medical officers above the rank of "passed assistant surgeon"—next to the lowest grade.³ The President

¹ Part I of this article, which appeared in the preceding number of the REVIEW, dealt with the first of four groups in which the bureaus are classified for the purposes of the present discussion, on the basis of the mode of selection and prior experience of the bureau chiefs now in office. Group I comprised the bureau chiefs appointed under the general merit system administered by the Civil Service Commission, covering thirteen units in the Department of Agriculture and, in addition, the National Park Service, the Reclamation Service, the Bureau of Naturalization, the Bureau of Engraving and Printing, and the offices of the Supervising Architect, the Director of Supply, and the Commissioner of the Public Debt.

² 18 U. S. Stat. L., 371-377, March 3, 1875.

³ The Act of Jan. 4, 1889 (25 U. S. Stat. L., 358) required that the medical officers of the service should be appointed after examination and then to the lowest grade of surgeon. The regulations that instituted the semi-military type of organization—recommended by Dr. John S. Billings of the army medical service in 1870—were put in force in 1873, amended in 1878, and recognized and strengthened by the statute of 1889. The writer has drawn here from the manuscript of Robert D. Leigh's exhaustive treatise on *Federal Public Health Administration* (now in press). See also L. F. Schmeckebier, *The Public Health Service* (1920), pp. 167-168.

presumably could override this regulation, and indeed an opinion of the Attorney General has indicated that his choice is not confined to the list of commissioned officers by any law relating to the service.⁴ In fact, however, the principle has been observed in the selection of the four surgeons general appointed since 1879.⁵ This system of selecting the heads of the service guarantees training and acquaintance with its problems, but—especially in view of the flexible type of assignments so characteristic of the Public Health Service and so useful in freshening a permanent personnel—the options open to the President and the Secretary of the Treasury are numerous enough to leave room for the possibility of a sort of administrative politics.⁶ Dr. Hugh S. Cumming, made surgeon general in 1920 and reappointed for four years in 1924, was originally commissioned in 1894, a year after his graduation from medical school. His official record prior to 1920 was reputable but hardly outstanding; the fact that he was a fellow-Virginian no doubt had much to do with his appointment as surgeon general at a time when Carter Glass was Secretary of the Treasury.

⁴ 29 *Opinions of Attorneys General*, 287-293 (Dec. 21, 1911). The regulation in question dated from 1889.

⁵ The first surgeon general, Dr. J. B. Woodworth, was a leader in the then-emerging public health profession; he had been a Civil War medical volunteer and at the time of his appointment (1871) was connected with the Chicago board of health. Dr. Woodworth having died in office in 1879, Dr. J. B. Hamilton served as surgeon general until 1891, when he was relieved at his own request and recommissioned as a surgeon in the service. His successor, Dr. Walter Wyman, served twenty years and died in office. Neither Hamilton nor Wyman seems to have been extraordinarily distinguished in the service prior to his appointment as head. The choice of Dr. Rupert Blue in 1912 was largely in recognition of his notable anti-plague work in San Francisco. Dr. Blue was reappointed in 1916 and, at the expiration of his second term in 1920, was made an assistant surgeon general at large. There is a tendency, evidently, for the express rule that members of the service cannot be detailed for longer than eight years' duty as assistant surgeons general in Washington to give rise to an analogous convention regarding the limitation of surgeons general to two terms.

⁶ The conditions in this service are such, however, that administrative politics easily defeat themselves. It is said that one of the most brilliant members of the Public Health Service, recently an assistant surgeon general, has hurt his chances by too obvious attempts to have himself considered for the position of surgeon general.

The Coast Guard is assimilated even more than the Public Health Service and the Coast and Geodetic Survey to military conditions. It operates with an enlisted personnel and with commissioned officers drawn from its own academy, whose rank and pay follow specified grades in the navy. Apart from its position in the Treasury Department, however, the Coast Guard is sufficiently civil in nature to belong in the present discussion. The selection of its head naturally follows the traditions of the Revenue Cutter Service, out of which, by juncture with the Life Saving Service, the Coast Guard was formed in 1915. The law provides that he must be taken from the officers who have attained at least the rank of commander—of whom, for example, there were twenty in 1925. F. C. Billard, at present commandant of the Coast Guard with the rank and pay of rear admiral, originally entered the old Revenue Cutter Service by examination in 1894, received cadet training (graduating second in his class), and was commissioned ensign in 1896. He was subsequently assistant to the chief of that service for five years and superintendent of the Coast Guard Academy for four, and he acted as aid to the head of the Coast Guard during the five years before his own appointment as commandant in 1924. His predecessor, W. E. Reynolds, who resigned voluntarily in that year, was developed in practically the same way; he had been forty-one years with the Revenue Cutter Service and the Coast Guard and was senior officer when he was made commandant in 1919, at the time of the retirement of Commandant E. P. Bertholf, head of the Revenue Cutter Service after 1911 and later of the Coast Guard.

Prospectively, at least, the Coast and Geodetic Survey can be classed with the foregoing services for not only did an act of 1917 authorize a hierarchy of field officers which can be entered only at the bottom after "passing a satisfactory mental and physical examination conducted in accordance with regulations prescribed by the Secretary of Commerce,"⁷ but in addition a statute of 1920 specified that the superintendent (who now has the rank and salary of a captain in the navy) shall be appointed

⁷ 40 U. S. Stat. L., 84, 88, May 22, 1917.

by the President with the consent of the Senate "from the list of commissioned officers of the Coast and Geodetic Survey not below the rank of commander for a term of four years, and may be reappointed for further periods of four years each."⁸ E. Lester Jones, the present head of the Survey, antedates this system of internal recruitment. His original appointment in 1915 was a half-way instance of promotion, for he had been for two years deputy commissioner of fisheries—a presidential office and his only prior connection with national administration. He has since been reappointed by President Harding and again by President Coolidge. When he withdraws at last from the service, presumably the new closed system of personnel will be invoked in selecting his successor.

The tradition of the Coast and Geodetic Survey has on the whole favored technical training and an absence of partisanship in the selection of directors. Space does not permit an examination of the ten incumbents whose record would carry the story back to Ferdinand R. Hassler's brilliant service from 1816 to 1818 and from 1832 to 1843. Hassler's successor, A. D. Bache, served twenty-five years, and Benjamin Pierce, eminent mathematician, for seven more, but from 1881 to 1897 each director (although usually scientifically respected) was in office only four years. Henry S. Pritchett was put in charge of the Coast and Geodetic Survey in 1897, after fourteen years as director of the observatory at Washington University. He resigned in 1900 to become president of the Massachusetts Institute of Technology and is now president of the Carnegie Foundation for the Advancement of Teaching. Otto Hilgard Tittmann, the next head, had been connected with the Survey since 1867 and was assistant superintendent at the time of his appointment. He voluntarily resigned in 1915 at the age of sixty-five. Mr. Tittmann, at least toward the end of his incumbency, was thought to be losing effectiveness in such matters as pleading the Survey's cause before the committees of Congress. Perhaps this consideration influenced the selection of E. Lester Jones. His preparation for the work after

⁸ 41 U. S. Stat. L., 812, 825, June 4, 1920. The title "superintendent" was changed to "director" by a provision of June 5, 1920, 41 U. S. Stat. L., 874, 929.

his graduation from Princeton in 1878 had been less technical than in the case of his predecessors. One of the scientific journals remarked editorially a year after his appointment: "Jones was deputy commissioner of fisheries when appointed. His appointment to that office and promotion to the head of the Survey in the same department were personal rather than political. He has proved an efficient executive, but his appointment to both these offices certainly violated the principle that these positions should be held by experts."⁹ The editorial noted that in this case the Wilson administration had departed from its practice of consulting the learned societies regarding appointments to offices of this type. As a matter of fact, a memorandum from Secretary of Commerce Redfield to the President in 1915 remarked: "I have consulted Mr. Charles D. Walcott, director of the Smithsonian Institution, on the subject of the Tittmann resignation and the Jones appointment, and he thinks it the right

⁹ *Scientific Monthly*, August, 1916, vol. 3, pp. 308-9, in an editorial note on "Scientific Appointments under the Government," which was reprinted (together with comment by Prof. E. G. Conklin on the same point) in *Science*, n.s., August 25, 1916, vol. 44, no. 1130, pp. 277-8. The occasion for the editorial is revealed in the opening remark: ". . . it is of interest to those concerned with science that Mr. Hughes in his first campaign speeches should select as one of his two leading issues the appointments by President Wilson to scientific offices under the government. This would not have been a vital political issue a few years ago, and it is gratifying that it should now have become so." The reference is to the fact that the Republican presidential candidate, speaking at Dr. rat on August 7, 1916, attacked the appointment of a Southern politician in 1913 as director of the census in place of Dr. E. Dana Durand (*infra*, p. 783), and the selection of E. Lester Jones in 1915 to head the Coast and Geodetic Survey. On the later aspect of the matter especially, Mr. Hughes was tempted to over-reach himself by the fact that Mr. Jones once studied veterinary medicine incidentally in connection with a stock-farm that he owned and operated in Virginia during part of the time between his return from some study at German universities and his appointment as deputy commissioner of fisheries in 1913; in the parlance of the stump, that was enough to make him "an excellent stockbreeder and veterinary surgeon." Mr. Hughes' speeches elicited sharp rejoinders from Secretary of Commerce Redfield and others. (See the daily press of August 9, 10 and 11, and the Senate proceedings in the *Congressional Record* of August 10, 1916). On the major question, the editorial in the *Scientific Monthly* already quoted remarked: "Mr. Hughes has not pointed out, as an impartial judge might have done, that the two scientific appointments mentioned are the only ones in which the President is open to criticism, or that he is the first President who officially asked the advice of scientific men on such points."

policy to pursue." Ten years later a secretary of commerce wrote to a president: "The Coast and Geodetic Survey is, of course, one of the scientific branches of this department and I have felt that continuity of directors is of first importance. Col. Jones may have been originally a Democrat, as he came from Virginia, but he has long since lost all politics. He has been in government service for twelve years, during ten of which he has been head of the Coast and Geodetic Survey. His appointment by President Harding was cordially supported by Republican leaders in the Senate . . . and, I believe it would be desirable to reappoint him." On March 16, 1925, Mr. Jones was commissioned for another term of four years.

III

The selection of bureau chiefs by promotion is not confined to the positions which are in the classified service or which, as in the case of the three bureaus last examined, are subject to special, internally-administered schemes of examination and advancement. A considerable number of other bureaus wear the same presumptive sign of a non-political status. Viewed from the standpoint of the chiefs who are now in office, the units which fall in this group are the Weather Bureau, the Geological Survey, the Bureau of Standards, the Bureau of Lighthouses, the Steam-boat Inspection Service, the Bureau of Fisheries, the Bureau of the Census, the Bureau of Foreign and Domestic Commerce, the Bureau of Labor Statistics, the Children's Bureau, the Women's Bureau, the Division of Conciliation, and also (although less clearly) the Employment Service, the office of the Comptroller of the Currency, and the Mint.

The chief of the Weather Bureau is the only bureau head in the Department of Agriculture who is appointed by the President with the consent of the Senate, and who, therefore, is not in the classified service. There have been only three chiefs, however, in the thirty-four years since the service (with its then existing personnel nearly intact) was transferred from the signal corps of the army to the Department of Agriculture in 1891.¹⁰ The

¹⁰ 26 U. S. Stat. L., 653, October 1, 1890.

second of these, Willis L. Moore, was appointed in 1895. He had already been long in the work, rising through the various grades, and in 1894 had been chosen to a professorship of meteorology in an open competitive examination. Professor Moore was removed by President Wilson on April 16, 1913, on the ground that he had used his office in promoting his own candidacy for the post of Secretary of Agriculture.¹¹ Charles F. Marvin, the present chief, was then selected by an interesting procedure. There were few direct applicants, but one of these, although almost unknown as a scientist, had the insistent backing of a senator from Mississippi. A departmental memorandum¹² describes how the pressure was avoided and the field was canvassed:

" . . . In his search for a successor to Professor Moore, Secretary Houston wrote letters to the leading university presidents and scientists in America asking for suggestions, canvassed the matter with all the gentlemen connected with the government who had information and knowledge bearing on the situation, considered every man in the Weather Bureau itself, sought interviews with committees of the American Association for the Advancement of Science and requested the advice of the National Academy of Sciences Particular helpful was a committee of the National Academy of Sciences¹³ This committee

¹¹ After an investigation by the Department of Justice, thirty-nine employees of the Weather Bureau were suspended or otherwise disciplined in April, May, and June, 1913, for alleged activities, inconsistent with official duties, in behalf of Mr. Moore's candidacy. Admitting that Mr. Moore yielded to the well-known "last infirmity" and made serious errors of judgment, it was generally agreed that during his long tenure he had done much to build up the Weather Service.

¹² Prepared in 1921 for the information of the incoming president, but paraphrased largely from correspondence that passed between Secretary Houston and President Wilson in 1913.

¹³ The committee consisted of Professor W. Campbell of the Lick Observatory, Dr. A. Day, secretary of the Academy, Prof. E. L. Nichols of Cornell, Prof. E. C. Pickering of Harvard, Dr. Ira Remsen of Johns Hopkins, Dr. Elihu Thomson, director of the Thomson Laboratory of the General Electric Company, President Van Hise of Wisconsin, Dr. William H. Welch, president of the Academy, and Dr. R. S. Woodward, president of the Carnegie Institution, chairman. The initiative in the direction of such a committee was taken by the adoption of a resolution proposed by Dr. Cattell at the meeting of the council of the American Association for the Advancement of Science on April 22, 1913.

very carefully considered the names of twenty-three scientists of more or less note, finally eliminating all except the following: Professor E. B. Rosa, Professor C. F. Marvin, Lyman J. Briggs, and Professor A. G. McAdie"

Of the four, all but Dr. Rosa (the brilliant chief physicist of the Bureau of Standards, since deceased) were at that time on the staff of the Department of Agriculture. On the basis of administrative desiderata, the Secretary narrowed the choice to the two first named, and finally decided on Marvin because ". . . while it was believed that Dr. Rosa possessed a slightly greater administrative capacity than Professor Marvin, it was felt that Professor Marvin's more intimate knowledge of the Weather Service and its problems abundantly justified his selection. Accordingly, a recommendation went forward to the President on June 18, 1913." Mr. Marvin's nomination by President Wilson followed as a matter of course. He was not disturbed by President Harding in 1921.

The position of director of the Geological Survey, although a presidential office, is as definitely beyond the play of partisan considerations and as well-protected by a tradition of stability as any in the whole range of the bureaus. In 1879, when Congress, on the recommendation of the National Academy of Sciences, established the new organization¹⁴ to take the place of scattered and sporadic surveys, the first director was Clarence King, who as early as 1867 had been the civilian in charge of one of the surveying projects under the War Department. Major John Wesley Powell, famous in American explorations, succeeded him in 1881, serving until 1894. The third director, Dr. Charles D. Walcott (at present secretary of the Smithsonian Institution and vice-chairman of the National Research Council) had entered the U. S. Geological Survey in 1879, after three years with the New York state geological survey, and in 1892 had risen to the position of geologist in charge of matters of geology and paleontology. Dr. Walcott served as director from 1894 to 1907. The fourth director, George Otis Smith, has been in office since

¹⁴ 20 U. S. Stat. L., 377, 394.

1907.¹⁵ Immediately following his graduation from Colby College in 1893 he joined a Geological Survey party as field assistant and when he had obtained his doctor's degree from Johns Hopkins in 1896 he received a regular appointment as assistant geologist. At the age of thirty-six with fourteen years of bureau experience behind him, he was appointed director by President Roosevelt when Dr. Walcott resigned to become the head of the Smithsonian Institution.

At the time the Bureau of Standards was created by statute in 1901, the Office of Standard Weights and Measures in the Treasury Department, out of which it directly evolved, had only eight employees.¹⁶ In the years since, while growing to its present stature, it has been under only two directors, and the tenure of the first nearly bridged its whole development. Dr. Samuel W. Stratton, director from 1901 to 1923, was a teacher of mathematics, physics, and electrical engineering at the University of Illinois from 1886 to 1892 and was subsequently at the University of Chicago, where he was professor of physics when he was nominated by the President to head the new bureau, with the work of which he was already acquainted.¹⁷ When Dr. Stratton resigned in 1923 to become president of the Massachusetts Institute of Technology, he was replaced through what was virtually the promotion of Dr. George K. Burgess, then chief of the division of metallurgy. Dr. Burgess, upon finishing his graduate work in 1901 and after a brief academic experience as an instructor in physics, joined the Bureau of Standards in 1903 as an assistant physicist at a salary of \$1,300. In a departmental memorandum in 1921, when his advance from \$4,800 to \$5,200

¹⁵ Dr. Smith, at his own request, was relieved of the directorship from Sept., 1922, to Sept., 1923, in order to give full time to the work of the U. S. Coal Commission, of which he was a member. For the purposes of this article, this hiatus is disregarded altogether.

¹⁶ Gustavus A. Weber, *The Bureau of Standards* (1925), p. 40.

¹⁷ "In the interval between the enactment of the law, March 3, and the date when it was to take effect, July , 1901, preliminary plans were prepared by the Office of Standard Weights and Measures. This work was facilitated by the fact that the Inspector of Weights and Measures under the old régime, Dr. S. W. Stratton, was appointed Director under the newly created Bureau." *Ibid.*

was under consideration, Dr. Stratton wrote: "Dr. Burgess has several times refused offers of far greater salaries from industrial organizations, feeling that he could be of much greater service to industry as a whole by remaining at work here on their fundamental problems."

Lighthouse administration was conducted by a board from 1852 down to 1910, when the Bureau of Lighthouses was established by act of Congress under a commissioner appointed by the President alone. Thus far, George R. Putnam has been the only incumbent. In 1891, the year after his graduation from the Rose Polytechnic Institute, he entered the Coast and Geodetic Survey as an aid at a compensation of \$25.00 per month with subsistence, and subsequently rose through every grade of its field force. A decade after his original appointment, in recommending his advance to \$2,000, the head of the Survey wrote to the Secretary: "Mr. Putnam by comparison with the other assistants in the Bureau is best entitled to promotion by reason of his ability, experience and the zeal and fidelity displayed in the discharge of his duties." The crucial factor in his promotion to fill the new office of commissioner of lighthouses is revealed in a letter on June 30, 1910, to the Secretary of Commerce and Labor, Mr. Nagel, from Henry Pritchett, then head of the Carnegie Institution, but formerly director of the Coast and Geodetic Survey:

"I venture, as the member of the Lighthouse Board longest in service, to make a single suggestion regarding the legislation now under consideration by Congress. . . . I venture to suggest for your consideration in this connection, should the bill pass, the name of Mr. George R. Putnam, the head of one of the divisions of the Coast Survey. I sent Mr. Putnam to Manila in 1900 to organize the surveys of the Philippine Islands. He remained there six years and did a most admirable work. He has in addition carried out very extensive surveys in Alaska and is now at the head of one of the divisions in the Coast Survey work. I do not believe you could find a better qualified man than he to undertake this service. Such a man ought to have not only personal and professional qualifications, but he ought also to know government service; otherwise he will have many mistakes to make and

many difficulties to overcome before we can bring the service into good working order."

Mr. Pritchett added that he preferred Mr. Putnam to a certain subordinate long in the lighthouse work who was mentioned for the post, because he feared the latter was too "thoroughly imbued with the traditions of business already existing in the service." Mr. Putnam was duly appointed and confirmed.¹⁸

A unit dealing with fisheries has existed since 1871,¹⁹ although it was an independent body until the creation of the Department of Commerce and Labor in 1903. The first commissioner, Professor Spencer F. Baird, served for sixteen years. The periods of service of the four ensuing incumbents were short. The shadow of politics fell very definitely over the Bureau in 1898, when a Republican senator from West Virginia is said to have presented a political promissory note, so to speak, which the new Republican president reluctantly paid by appointing George M. Bowers, active in West Virginia politics but without scientific training or experience. Mr. Bowers was removed in 1913 at the instance of Secretary Redfield.²⁰ His successor, Dr. Hugh M. Smith, was a

¹⁸ Following the change of party in 1913, some shifting was attempted by at least one Congressional delegation. In August, 1913, three Representatives from one of the South Atlantic states called at the White House, complaining of neglect of the lighthouses in their district and incidentally urging the appointment as commissioner of a person whom they named. At the same time, one of the Senators from the state in question wrote to the President's secretary: "I understand that there is great complaint at Mr. Putnam's administration of the office now because he has brought strangers into the South—carpet-baggers, as it were—and put them over our people." The Maritime Exchange, however, protested against any disturbance of the office for political reasons, and Secretary Redfield wrote to the president of the American Steamship Association: "It is my very earnest belief that the head of an important scientific service of this kind should not be subject to change for political reasons. Your letter is a support which I appreciate in this connection."

¹⁹ 16 U. S. Stat. L., 594, Feb. 9, 1871. The independent unit was called the U. S. Commission of Fish and Fisheries; it was renamed Bureau of Fisheries when attached to the newly created department in 1903. Spencer F. Baird was virtually the creator of the unit as well as its first commissioner; during much of the time he was also head of the Smithsonian Institution.

²⁰ Mr. Bowers' successor was appointed from candidates recommended by a committee representing the American Society of Naturalists and the American Zoological Society. It is understood that in 1898, when a similar committee approached President McKinley, he informed them that he was not free to follow their

Fisheries man, having entered the service in 1886 at the age of twenty-one. He acquired scientific training; he rose through various scientific grades, and was deputy commissioner of fisheries from 1903 to 1913. After nine years at the head of the bureau and thirty-six years of service in it, his resignation was requested late in 1921. The reasons were said to be more administrative than political; they remain too obscure, however, to permit comment here.²¹ Henry O'Malley, the new commissioner, is as thoroughly bureau-trained as was Dr. Smith. He, too, entered its employ at twenty-one, starting as an apprentice fish culturist. He had charge of the bureau's work in the Columbia River watershed for six years and of the fish-cultural work on the Pacific Coast for three years more. From 1916 to 1918 he was at Washington as chief of the division of fish culture. At the time he was appointed commissioner he had charge of all phases of the

advice. Regarding Mr. Bowers' incumbency, a scientist long in high position in another branch of the government with unusual opportunities for observation—although admitting the political instigation of the original appointment—informs the writer: "Bowers made a very good commissioner and did not interfere with the scientific work." Subsequently to his removal, Mr. Bowers was a member of four Congresses. The guess may be hazarded that his obvious resentment at his removal may have remained a disturbing factor in the bureau's affairs as late as 1921-22.

²¹ Dr. Smith is at present fisheries adviser to the Siamese government. The explanation of his virtual removal which is perhaps most charitable to all concerned was given to the writer by a person then in touch with Fisheries' matters, as follows: ". . . . Secretary Hoover was concerned about the critical condition of the Alaska salmon fisheries and desired a more rigorous policy of regulation. . . . I have always felt that had Dr. Smith's knowledge of Alaska fisheries been as thorough as that which he had concerning other fishery matters he would have remained in office. I have also felt that under the circumstances his removal probably was justified, but that considering his long service, ability and reputation the removal was accomplished in an unnecessarily offensive manner." Apparently Dr. Smith learned of his impending displacement through the innocent and embarrassed Mr. O'Malley, whose appointment was held up in the meantime and "a political dog fight precipitated with several other candidates." The writer's informant remarks: "It is also my understanding that this discreditable and discourteous phase of an otherwise legitimate transaction was dictated by a Mr. Houston, then assistant secretary of commerce, a politician from Tennessee." The writer has been unable to get any explanation from the Department itself other than a brief note from Secretary Hoover, saying (apropos of the sentence in the text above): "It seems to me that the statement you make reflects somewhat on Dr. Smith, as to whose services and ability as a scientist there should be no such reflection." What can the writer say?

work on the Pacific Coast, not including, however, the sorest point of all—the seal-herds on the Pribilof Islands.

The Steamboat Inspection Service in the Department of Commerce has police rather than scientific functions, but the idea of internal recruitment and long tenure for the supervising inspector general seems to be well established. In the five years immediately following the creation of the office in 1871¹² as many as four persons held it in quick succession. It was soon stabilized, however. The fifth supervising inspector general was in office continuously from 1876 to 1903, and George Uhler, who succeeded him, served until the end of 1925. Lickerson N. Hoover was appointed supervising inspector general on January 16, 1926. In 1903, when twenty-three years of age, Mr. Hoover entered the service by examination, beginning as a clerk at \$1,000 to a local board of inspectors of steam-vessels. Later in the same year he was promoted to another field position and then transferred to the Washington office. He rose through various duties to the position of chief clerk and meanwhile gained a law degree. After 1911 he was deputy supervising inspector general. At the time of his appointment as supervising inspector general he had been in the service for twenty-three years. They had not been passed without impatience. In 1908, for example, he addressed a request (fortunately, it seems, one that was not granted in the form asked) for a transfer to some bureau where "opportunities are more favorable for promotion" A little while later he received a special assignment to assist in the preparation and rating of examination papers of applicants for local inspectorships. His promotion was not automatic; when he was made chief clerk in 1909 it was over the heads of two clerks of a higher salary grade and one of the same grade who had been longer in service. Thus are civil service careers sometimes made.

William M. Steuart, present director of the census, was appointed to the position in 1921 at the age of fifty-nine. His

¹² 16 U. S. Stat. L., 440, 458, Feb. 28, 1871, which says that the supervising inspector general ". . . shall be selected with reference to his fitness and ability to systematize and carry into effect all the provisions of law relating to steamboat-inspection service."

connection with the census work—necessarily intermittent in the case of early censuses—went back to 1880; he was chief of a census division in 1890 and 1900 and chief statistician for manufactures from 1902 to 1917. He then served for two years as secretary and statistician of the Tariff Commission, before returning to the Census Bureau in 1919 as assistant director. Fluctuations in the type of chief have existed since the Census Bureau became a permanent agency in 1902.²³ The bureau's technical problems are very great, but the periodic expansion under pressure creates an unusual need for administrative driving-force; at the same time, the lump-sum appropriations and large number of temporary positions have made the census a natural butt of politics. Simon N. D. North, director from 1903 until 1909 (later statistician of the Carnegie Endowment for International Peace) had been a newspaper-man, secretary of a national trade association, and chief statistician for manufactures in the census of 1900. Dr. E. Dana Durand, director from 1909 to 1913 (subsequently professor of statistics at the University of Minnesota and at present chief of the division of statistical research of the Bureau of Foreign and Domestic Commerce), had behind him a rich and varied technical experience, although only one year of it had been in census work. He was deputy commissioner of corporations at the time of his appointment as director of the census. Perhaps the fact that his direction was thought by the incoming administration to have been marked rather by technical than by administrative aptitude invited a change in policy regarding this office. The appointments of 1913 and 1915 were obviously political.²⁴ William J. Harris (at present United States senator

²³ The census unit was not made permanent until 1902, but was organized afresh in each decennial period. There was some continuity of staff, however. Joseph C. G. Kennedy had charge both in 1850 and in 1860; Francis A. Walker, who was president of the American Economic Association and the American Statistical Association and in his time perhaps the leading economist and statistician in the United States, directed the censuses of 1870 and 1880. His successors as superintendent were a newspaper man in 1890 and in 1900 a banker and business man who had been governor of Minnesota. Walter F. Willcox, "The Development of the American Census Office since 1890," *Political Science Quarterly*, XXIX, 438-459 (Sept., 1914).

²⁴ An unsigned comment in the *Journal of Political Economy*, July, 1914 (XXII, 691), said: "The condition of the U. S. Census Bureau is again alarming scientific

from Georgia) was named shortly after the inauguration of the new administration; confirmation of his appointment was recommended by the Senate committee on census by a strictly party vote. He had long been in the insurance business, and he was chairman of the Democratic state committee. In 1914—after less than a year's actual service—Mr. Harris announced his resignation in order to run (unsuccessfully, as it turned out) in the gubernatorial primary; in 1915 he was appointed to the Federal Trade Commission. His successor as director of the census was Sam L. Rogers, whose training had been gained as a clerk of court, collector of internal revenue, and member for twelve years of the state corporation commission of North Carolina. The selection of William M. Stewart by promotion in 1921 introduced another phase in the still undefined tradition of the office.

The present director of the Bureau of Foreign and Domestic Commerce, Dr. Julius Klein, reached the position in 1921 by what was virtually promotion from within the service. Graduating from California in 1907, he completed his advanced work at Harvard in 1915, with some study and research abroad both before and afterwards. His active connection with the Harvard graduate school of business administration was broken when, in 1917, he entered the Bureau of Foreign and Domestic Commerce through a non-competitive examination.²⁵ For two years he was at the head of the division of Latin American trade, and for another year he was commercial attaché at Buenos Aires. He had resigned to resume academic work at Harvard when he was appointed chief of the bureau. The history of this office since 1912 (when the Bureau of Foreign and Domestic Commerce

students of statistics Subsequent to the virtual removal of the head of the bureau at the opening of the Wilson administration, there was a return to the old idea of placing in charge of the organization a man without statistical knowledge or experience. . . . During the administration of Mr. Harris, the bureau has continued to sink in prestige” Dr. Durand was displaced before the completion of the publication of the 1910 census—a thing that seemed unfortunate in itself; certainly it is hard to apportion responsibility under these circumstances.”

²⁵ Permitted by Rule III, sec. 2, in connection with certain positions enumerated in Schedule B.

was formed through the combination of the bureaus of statistics and manufactures²⁶⁾ has been marked by little politics but by so many shifts as to leave in doubt its stability of tenure in a field that offers many paths of approach and many attractive avenues of departure.²⁷

Young as are most of the branches of the Department of Labor, not to mention the department itself, it contains three bureaus whose present heads, though presidential appointees, have been chosen from within the service: the Bureau of Labor Statistics, the Children's Bureau, and the Women's Bureau. In addition, the positions of director of conciliation and director of the employment service—which are filled by the Secretary of Labor but which are exempt—are held by persons who were in the Department at the time of their appointment.²⁸

²⁶ 37 U. S. Stat. L. 360,407, Aug. 23, 1912. Cf. L. F. Schmeckebier and G. A. Weber, *The Bureau of Foreign and Domestic Commerce* (1924).

²⁷ Dr. Klein is the sixth director (or chief, as the position was termed before 1919) since the establishment of the bureau in 1912. The first chief, Albertus H. Baldwin, was the head of the former Bureau of Manufactures, and before that was chief clerk of the Department of Commerce and Labor, having advanced since 1884 through civil service positions in as many as five departments, on the basis of college and other educational preparation that had little to do with business. He later became a commercial attaché and is now in banking. Dr. E. E. Pratt was specifically trained for commercial and industrial investigations and was manager of the industrial bureau of the Merchants' Association of New York when appointed chief in 1914; he left in July, 1917, when his relations with the President and the Secretary of Commerce had become strained; he now has business and chamber of commerce connections. Burwell S. Cutler, chief from 1917 to July 14, 1919, came directly from private business and returned to it. Phillip Kennedy, who served until June 30, 1920, was commercial attaché in London at the time of his appointment; he is now vice-president of a bank. Professor Roy S. MacElwee was assistant director of the bureau under Kennedy, and director until March 31, 1921; he is at present harbor commissioner at Charleston, S. C.

²⁸ The Bureau of Industrial Housing and Transportation in the Department of Labor is omitted from consideration in the body of this paper, on the ground that it is merely the war-time Housing Corporation in process of liquidation. Robert Watson has been head of this bureau and president of the Housing Corporation since 1920. He was appointed by the Secretary of Labor, but his position is exempt under a ruling of the Attorney General relating to the applicability of civil service rules to government-owned corporations. Mr. Watson is a seasoned civil servant. In 1906, at the age of twenty, he entered the immigration service as a clerk; he was chief clerk of the Department from 1913 to 1917, assistant director of the U. S. Employment Service and assistant to the Secretary of Labor from 1918 to 1920.

The history of the Bureau of Labor Statistics really runs back to 1884.²⁹ Of its four heads since that time, only the present commissioner has been promoted directly from the service. Carroll D. Wright—in his day perhaps the most notable economist and statistician in public office—served from the establishment of the bureau until 1905. Dr. Charles P. Neill was appointed directly from academic life, although he had touched the government service briefly as assistant recorder of the anthracite coal commission in 1902. Despite some opposition by Southern senators from a textile region, he was reappointed by President Wilson and confirmed in 1913, but almost immediately resigned to go into commercial research. The choice of Dr. Royal Meeker, professor of political economy at Princeton University, was undoubtedly influenced in part by the element of prior professional association with President Wilson. When Dr. Meeker resigned in 1920 to become the head of the scientific division of the International Labor Office, and, later, of the department of labor and industry of Pennsylvania, Ethelbert Stewart was given a recess appointment. President Harding confirmed it by a permanent appointment in 1921 for the four-year term that the statute regarding the office formally provides, and President Coolidge reappointed Mr. Stewart in 1925. "Facts and Figures" Stewart (in the affectionate term of more than a generation of civil servants and social workers) was a journalist in his youth and was introduced to statistical work as a member of the Illinois board of labor commissioners in 1885. He joined the United States Bureau of Labor in 1887 at the age of thirty, and, except for two years with the Tariff Board and Children's Bureau in 1911–13 and for some war-time assignments, he has been continuously in its service for nearly thirty-nine years, being chief clerk and chief statistician after 1913.

²⁹ 23 U. S. Stat. L. 60, June 27, 1884, which created a "Bureau of Labor" in the Department of the Interior. It was renamed the "Department of Labor" and made an independent unit by the act of June 13, 1888, 25 U. S. Stat. L., 182. In 1903, under the name "Bureau of Labor," it was transferred to the newly created Department of Commerce and Labor. In 1913 it was rechristened the "Bureau of Labor Statistics" and was placed in the Department of Labor.

Miss Grace Abbott, the second head of the Children's Bureau and its chief since the resignation of Miss Julia C. Lathrop in 1921,³⁰ had an impressive record as a teacher, as executive secretary of the Massachusetts immigration commission, and as director for nine years of the Immigrants' Protective League before she became connected with the Children's Bureau in 1917. She was then made director of its child labor division, in charge of the enforcement of the first child labor law. In 1919, after special war-time work in connection with the War-Time Policies Board and the first international labor conference, Miss Abbott left the service of the United States Department of Labor for nearly two years, acting as executive secretary of the Illinois state immigrants commission. Despite this break, however, her appointment to be chief of the Children's Bureau in 1921 can really be treated here as an instance of selection of a bureau head by promotion, quite apart from the deeper sense in which Miss Abbott carries forward the points of view which, through training in the same school of social thought and through intimate personal association, she has in common with her honored predecessor.

The justification for treating as an instance of promotion the appointment of Miss Mary Anderson to be chief of the new Women's Bureau in 1920 lies in the fact that in 1918 she joined the women in industry section of the Council of National Defence and later was assistant to Miss Mary Van Kleeck, the head of the Women in Industry Service out of which the Women's Bureau directly evolved.³¹ In 1919 she succeeded to the post on Miss Van Kleeck's resignation. The salient phase of Miss Anderson's valuable background for her present task, however, lay outside government service altogether. An immigrant from Sweden in 1888 at the age of sixteen, Miss Anderson entered industry as a worker. As early as 1894 she had become president of Local 94 of the Boot and Shoe Worker's Union, and she served

³⁰ Miss Lathrop, originally appointed in 1912, was not disturbed by the new administration in 1913, although there was gossip of a movement in behalf of the widow of a recently deceased Louisiana congressman.

³¹ The transformation was recognized and completed by the act of June 5, 1920, 41 U. S. Stat. L., 987. It provides that the director of the Women's Bureau shall be a woman.

on the national executive board of this union from 1905 until 1919. After 1910 she was the national organizer of the Woman's Trade Union League.

The Division of Conciliation is an embryonic bureau in the Department of Labor which is growing up around the Secretary's authority to mediate in labor disputes and to appoint commissioners of conciliation.³² Hugh L. Kerwin, director since the service first took form, was private secretary to his fellow-townsman, William B. Wilson, from 1911 to 1913, while Mr. Wilson was in the House of Representatives and chairman of the committee on labor, and he followed Mr. Wilson into the newly instituted Department of Labor, first as private secretary, then as assistant. He had charge of the war-time conciliation work of the department and was designated director of conciliation in 1918.

The United States Employment Service is now only the shell of a bureau. The director is appointed by the Secretary of Labor, but under an executive order of June 5, 1921, positions in the service may be filled without regard to civil service rules. Francis I. Jones—the second director general since the service emerged as a separate unit under war-time conditions—was at one period of his life in the hardware and plumbing supply business; for eight years, he was a postmaster under Republican administrations, and afterwards he was interested in mining in the West. He had charge of the Pittsburgh district of the employment service during the war and organized western Pennsylvania for it. His appointment as director, therefore, was sufficiently an instance of promotion to warrant its treatment here, but it bears other evidences of a political admixture than the fact that it dates from 1921.

The present director of the mint, Robert J. Grant, was advanced to this position from the post of superintendent of the Denver mint in 1925 when F. E. Scobey, old-time friend of the late President Harding, returned to business. Superficially

³² Commissioners of conciliation are specifically excepted positions under Civil Service Rule II; sec. 3, Schedule A, subd. XIII. The director of conciliation is appointed by the Secretary of Labor.

considered, Mr. Grant's appointment as director can be classed as an instance of promotion. His service in the Denver office was recent, however, dating from 1921; previously he was engaged in mining in Colorado and Arizona. This is indeed a tenuous example of internal recruitment, especially in view of the practice in the selection of the twenty-three prior directors of the mint. Before the Civil War, it is true, some served for relatively long terms; the four directors between 1795 and 1851, for example, were in office eleven, eighteen, eleven, and sixteen years respectively. Since the Civil War, tenure has been short, although (probably because of the statutory five-year term) not so immediately responsive to changes in the White House as in the case of other presidential offices of this general type.

Serious doubts must also accompany the classification of the comptroller of the currency among the bureau chiefs who were selected from within the government service.³³ The office has never been stable; there have been sixteen comptrollers since 1863 and one-third of these served two years or less. The training has been miscellaneous, usually in private enterprise, but the fact that the office has had to do with the supervision of national banks and in recent years has involved important duties under the Federal Reserve Act has tended to put a premium on banking experience. Tenure has been unfailingly affected by politics, although in 1921 President Harding appointed a banker-friend from Marion who was a Democrat. Joseph W. McIntosh, appointed comptroller of the currency in December, 1924, was at the time director of finance of the Emergency Fleet Corporation; before that he was chief of subsistence in the American Expedi-

³³ Qualifications of a different sort would be attached to the Bureau of the Budget if it were included at all in this survey. The present director, Brig. Gen. Herbert M. Lord, appointed in 1922 on Mr. Dawes' resignation, was assistant director during the first year of the bureau's existence. A graduate of Colby College in 1884, General Lord was newspaper man and clerk of the House ways and means committee in early life; he entered military life temporarily in 1898 and permanently in 1901. During the World War, he was Army Liberty Loan Officer. The relation of the Budget Bureau to the President is unique, and the fact that General Lord was promoted to his present position still leaves unanswered the important question of the relation of the budget function to politics. The whole matter is passed over here as a separable problem.

tionary Forces. His connection with the government had thus been brief. Essentially, his experience had been as a member of the staffs of banks, as a departmental manager for Armour and Company, and as receiver and later vice-president of the Western Stoneware Company.

IV

There remain for consideration eleven bureau chiefs now in office who did not serve in national administration prior to their appointment at the hands of President and Senate.³⁴ It is significant that in all such cases the appointment occurred subsequently to the inauguration of a new party régime in 1921. This does not mean, of course, that all of these positions have a political status. The Bureau of Mines happens to fall in this group because its new director was taken directly from the field of commercial mining, but no one suggests that partisan considerations were operative. Partisan motivation was indeed indicated in the circumstances under which the head of the Bureau of Education was forced out to make way for a new commissioner in 1921, but this single situation hardly warrants declaring the office to be one that prevailingly oscillates with party fortunes. The inclusion of the Bureau of Navigation needs less qualification, for the fact that the last commissioner served continuously from 1893 to 1921 was exceptional in the history of this bureau and he, moreover, was originally brought in from an unrelated field of private employment. The central machinery of the customs service is new and still in flux, although tending thus far toward the recognition of the party factor in the choice of the director. No qualification is required in connection with the inclusion of the other bureaus of the group: Patents, Immigration, the General Land Office, Indian Affairs, Pensions, Internal Revenue, and the office of the Treasurer of the United States.

The directorship of the Bureau of Mines has never been

³⁴ The director of customs is appointed by the Secretary of the Treasury, but the present incumbent was exempted from civil service restrictions by a special executive order (*infra*, p. 799), and for this reason the customs service was not classified with the first group of bureaus. All of the other heads of bureaus treated in the fourth group are appointed by the President with the consent of the Senate.

political. Dr. John A. Holmes, head of the bureau from its establishment in 1910 until his death in 1915, had in a very real sense fathered it while serving with the Geological Survey as chief technologist in charge of mine accident investigations; before that he had been four years in charge of the Survey's laboratories for testing fuels and structural materials, having come originally to the work after thirteen years' experience as state geologist of North Carolina. Dr. Van A. Manning, second director of the Bureau of Mines, had been continuously with the United States Geological Survey from 1885 to 1910; he was assistant director of the new bureau from 1911 until he was appointed to succeed Dr. Holmes. When Dr. Manning resigned in 1920 to become director of research of the American Petroleum Institute, Dr. F. G. Cottrell—assistant director at the time—took charge of the bureau for part of a year on the understanding that he wished to withdraw as soon as a permanent head could be found.³⁵ His successor, H. Foster Bain, was not actually in government service when he was made director in 1921. He had, however, been assistant director of the Bureau of Mines during the World War. Apart from seven years' experience as an editor of mining publications, moreover, his work had been mainly in the field of public administration; he had been connected with the Iowa Geological Survey for seven years, with the United States Geological Survey for two, and he had been director of the Illinois State Survey. Mr. Bain resigned as head of the Bureau of Mines in 1925 in order to become secretary of the American Institute of Mining and Metallurgical Engineers. The new director, Scott Turner, has behind him no civilian government service except a few months with the Geological Survey just after his graduation from Michigan in 1902 and prior to graduate work in the Michigan College of Mines. Mr. Turner's experience has been in practical mining in many countries and climes. In recommending his appointment, Secretary Hoover (to whose

³⁵ Dr. Cottrell shortly afterwards became director of the Fixed Nitrogen Research Laboratory in the Department of Agriculture. See this REVIEW, August, 1926, pp. 563-4. Mr. Bain was nominated while Mr. Wilson was still president, and was re-nominated and confirmed under the new administration.

department the Bureau of Mines was transferred by executive order in 1925) put it forth as the unanimous recommendation of an advisory committee appointed by him to look constructively into the affairs of the bureau.³⁶

"To a degree equalled, perhaps, by few other governmental organizations," observes a student of the statutory history of the agency for research in educational problems which has existed in the Department of the Interior since 1867, "the work of the Bureau of Education has been a reflection of the personality of the commissioners.³⁷ Commissioners have naturally been drawn from the educational field, but so varied is this field that experience in it may or may not be preparation for the bureau's work. The present commissioner, John J. Tigert, was professor of psychology in the University of Kentucky at the time of his appointment in 1921; he had touched administration as president of the Kentucky Wesleyan College between 1909 (he was twenty-seven then) and 1911, but not in connection with the public school system. In teaching, his special line was said to be "com-

* The chairman of this committee announced at the time: "It is believed that the appointment of Mr. Turner will conserve the ability of the various divisional heads in the tasks to which they have been devoting themselves, and promote the extension of the Bureau's service in the economic and industrial development of the country." H. Foster Bain, the retiring director, was a member of the committee and proposed the name of Mr. Turner. In a personal letter to the writer, Mr. Bain says: "Cottrell first, and later I, had been trying for some time to get Turner to join the staff. . . . By a fortunate set of circumstances he was free to leave about the time the directorship became vacant. . . . My four years there convinced me that it was desirable to bring into the organization wherever possible more of the experience and viewpoint of men who have been engaged in the active work of the industry outside government service. . . . It is only when the highest paid position is open that there is any hope of getting an outsider of experience and qualifications to join the staff. Even then, I am sorry to say, the salary does not cover the necessary expenses."

³⁷ Darrell H. Smith, *The Bureau of Education* (1923), p. 7. The successive commissioners of education and their tenure have been: Henry Barnard, 1867-1870, a leader in behalf of the legislation that created the bureau, who resigned because of lack of congressional support; John Eaton, 1870-1883; N. H. R. Dawson (a political appointee) 1886-1889; Dr. William T. Harris, 1889-1906, a practical, widely-respected school-man, who resigned because of age; Dr. Elmer Ellsworth Brown, 1906-1911, who resigned to become chancellor of New York University; Philander P. Claxton, 1911-1921; John J. Tigert, 1921-.

mercial applications of psychology," rather than problems of pedagogy. His two immediate predecessors had been superintendents of schools, and as university teachers later they had dealt with education as such. These considerations, together with the relatively local reputation of the new commissioner, sharpened the criticisms which were provoked by the understanding that Philander P. Claxton's withdrawal from the bureau in 1921 was not voluntary.³⁸ The status of the office, and with it much of the prestige and effectiveness of the bureau, remain uncertain and unpredictable.

The Bureau of Navigation in the Department of Commerce—charged with essentially police functions in regard to vessels and seamen and facing problems that are legal rather than scientific—is likely by nature to invite impermanence at the top. There were four short-lived commissioners of navigation between 1884, when the central bureau was established, and the beginning of the long tenure of E. T. Chamberlain in 1893. Mr. Chamber-

³⁸ An editorial note in the *Journal of the National Education Association*, June, 1921, p. 108, probably expressed the consensus of opinion in educational circles, at least as regards this method of change, saying: "Out of a clear sky . . . comes the announcement of the dismissal of Dr. Claxton as Commissioner of Education and the appointment of Mr. J. J. Tigert in his place. This action will be deplored by the friends of public education throughout the nation. It is not necessary to discuss the long and faithful service of Dr. Claxton, whose work has had the approval of two successive presidents of opposite political faith, nor is it necessary to review the little-known record and untried leadership of the man who has been named in his place" As a matter of fact, clear though the sky may have seemed, political observers could have told educators that lightning was likely to strike somewhere in Kentucky. On March 22, 1921, the daily press remarked of President Harding: "It is understood he is awaiting recommendations from Kentucky for a number of offices." An educator then in touch with the Bureau furnishes the writer a summary of his impressions of the moving forces, as follows: "Kentucky had a candidate for the President's cabinet. For one reason or another (some alleged moral turpitude) he was not accepted. Kentucky then claimed a district prohibition agent, but unfortunately the post had been promised to a citizen of Ohio. The salary of the prohibition agent was \$6,000 or thereabouts. Kentucky was then informed that it might have a \$5,000 post, namely, the commissionership of education. But it was important that the new commissioner should be acceptable to the American Legion. Mr. Claxton had been a well known pacifist before the war. And while he had behaved himself during hostilities . . . enthusiastic legionaries had protested against his incumbency before the Harding administration came in. Mr. Tigert . . . was a member of the American Legion and highly acceptable to it."

lain, furthermore, was appointed directly from private life; although he became a trained public servant, his experience after his graduation from college had been that of a political correspondent and newspaper editor. It remains to be seen whether his continuous service as commissioner for over twenty-seven years will be found to have had any permanent effect on the status of the office. A negative answer is indicated by the nature of the new appointment made in 1921, when Mr. Chamberlain (then sixty-five years of age) was shifted to special work in the Bureau of Foreign and Domestic Commerce. It is true that the new commissioner, David B. Carson, rose through thirty-five years of varied work with the Nashville, Chattanooga and St. Louis Railroad to the position of general manager (from which he retired to a farm in 1916), and that he had dealt with the railroad's river and transfer vessels. Other factors, however, influenced his appointment. A newspaper proprietor in Tennessee, meeting Mr. Carson on the street in 1921, asked him "why it was that the Republican party had overlooked one of its few members in Tennessee whose large business experience and capacity enabled him to fill well a position of any size." The Department of Commerce took thought where a retired railroad man's practical knowledge of river boats could be used.

The terms of commissioners of patents have been notoriously fleeting—two years or less in the cases of over half of the thirty-three incumbents since the Patent Office was established in 1836;³⁹ and this in the face of the fact that the position involves judicial functions that would ripen with experience. It is an unwritten law that the commissioner shall be a patent lawyer.

³⁹ Of the thirty-two commissioners of patents (not counting the present incumbent, but including one incumbent who served briefly twice at an interval of fourteen years), nine served one year or less, nine two years six three years, and only three more than four years. The record of the first commissioner, Henry L. Ellsworth (1836-1845) has not been equalled; the longest tenure since has been six years. The instability has also affected the two assistant commissioners, who are presidential appointees. "During the ten year period from Aug. 15, 1913, to Aug. 15, 1923, 5 persons have held the office of Commissioner, 5 persons that of First Assistant Commissioner, and six persons that of Assistant Commissioner." G. A. Weber, *The Patent Office* (1924), pp. 21-2. The Patent Office was transferred to the Department of Commerce by executive order of March 17, 1925.

The other desideratum is politics. Their combination was illustrated in the choice of the present head of the Patent Office in 1921. Thomas E. Robertson, the new commissioner, practiced patent law in the District of Columbia after 1904, residing meanwhile in Maryland and participating in Republican politics. The main impetus in his appointment emanated, apparently, from the Maryland contingent in Congress, for he was unanimously endorsed early in 1921 at a formal conference of the Maryland senators, congressmen, and national committeeman, although (said a memorandum from this group) "it was thought best by the majority of those present not to give the endorsements for positions outside Maryland to the press, as they might attract the attention of other states to these offices." In addition, there flowed to the White House the generally favorable but in some cases hostile comments of various practitioners of patent law and others immediately and commercially interested in its problems.

The post of commissioner general of immigration is the only bureau chiefship in the Department of Labor whose status is obviously political. Harry E. Hull, the present incumbent, was appointed in 1925, when William W. Husband, commissioner general since 1921, was advanced to the post of Second Assistant Secretary of Labor. Mr. Hull—educated in the common schools and at one time a grain buyer—had been an alderman for two years, mayor for ten, and postmaster for thirteen years in Williamsburg, Iowa, and a member of Congress from 1915 to 1925. This appointment seems to be a step backward. Mr. Hull's predecessor was long in contact with problems of immigration prior to his appointment as commissioner general, touching them from the legislative side as clerk of the Senate committee on immigration and as secretary of the Immigration Commission between 1902 and 1911, and from the administrative side as chief of the division of contract labor in the immigration service for two years, before he left after the outbreak of the World War to do Red Cross work in the care and return of prisoners. In general, the history of the position since its establishment in

1891⁴⁰ reveals no tendency toward stability. The commissioner general from 1893 to 1897 was a "lame-duck" congressman from the committee that had framed the original legislation. Between 1897 and 1913 the office of commissioner general was treated as a perquisite of organized labor. Terence V. Powderly, long master-workman of the Knights of Labor but a campaigner for McKinley in 1896, served from 1897 to 1902; F. P. Sargent, president of the Brotherhood of Locomotive Firemen, was commissioner general from that time until his death in 1908; and Daniel J. Keefe, head of the International Longshoremen, served from 1908 until the beginning of the Democratic régime in 1913. The choice of Anthony Caminetti—local prosecuting attorney, member of the California legislature, a congressman in the nineties, Democratic delegate and elector—was one of the least commended of President Wilson's major appointments. "The Commissioner General," wrote one who was the commissioner at Ellis Island from 1913 to 1919, "was as untrained in administrative work as I was in higher mathematics, and his consciousness of his inexperience led him to refuse to take any action at all . . . he argued by pounding the table, swinging his arms, and evading the issue."⁴¹

Commissioners of the general land office always change with parties. Indeed, the tenure of the thirty-four individuals who have occupied the office since its establishment in 1812⁴² has been

⁴⁰ The office of superintendent of immigration was created by the act of March 3, 1891, 26 U. S. Stat. L., 1034, but the title was changed to commissioner general and the term Bureau of Immigration was first used in an act of March 2, 1895, 28 U. S. Stat. L., 764,780.

⁴¹ Frederick C. Howe, *The Confessions of a Reformer* (1925), p. 255. The writer knows of no more pointed commentary of the fatuousness of the idea that temporary, politically appointed bureau heads serve to "humanize" administration than the juxtaposition of the remark already quoted and Mr. Howe's strictures on the civil service which follow in his next paragraph: ". . . In a generation's time, largely through the civil service reform movement, America has created an official bureaucracy moved largely by fear, hating initiative, and organized as a solid block to protect itself and its petty, unimaginative, salary-hunting instincts. America has paid a heavy price for its permanent classified service. In Washington at least, it would be better if we had the spoils system, with all of its evils, in those offices that have it in their power to shape policies, to control executive action, and to make the state a bureaucratic thing."

⁴² 2 U. S. Stat. L., 716

even shorter than the mutations of party control required. The considerations that govern appointments to this position combine partisanship with the sectional consciousness of economic interests in the public land states, which by a custom of our politics hold a sort of dower-right in the Department of the Interior. The present commissioner, William Spry—Republican and Mormon—is not alien to the tradition of the office. He was engaged for ten years in farming and ranching in Utah, developed banking connections, was an elective county and city official, member of the legislature, chairman of the state land board, United States marshal, and governor of Utah from 1909 to 1917.

Of the thirty-one commissioners of Indian affairs since the creation of the office in 1832,⁴³ only one (and he between 1839 and 1845) survived a change of party. Some of its occupants brought some prior administrative experience to the office, as did R. G. Valentine, commissioner from 1909 to 1913, who for a little while had been private secretary to the former commissioner and also a supervisor of Indian schools and assistant commissioner of the office of Indian affairs itself. Francis E. Leupp, 1905–1909, brought such a background as an active publicist and editor might have. The present commissioner, Charles H. Burke, took up his duties in 1921 with no more evidence of any previous administrative contact in a public way with Indian affairs than characterized his predecessor, Cato Sells, Democratic national committeeman for Texas at the time of his appointment in 1913. Mr. Burke, though lawyer-trained, was engaged in real estate and investment business; he had been a member of the South Dakota legislature and represented a district of that state in Congress almost continuously from 1889 until 1915. The logic of his appointment, of course, lay partly in the fact that he had been chairman of the House committee on Indian affairs.

Washington Gardner, twenty-sixth commissioner of pensions since the work was given the status of a permanent bureau in the Department of the Interior in 1849, resigned in 1925 at the age of eighty. He was appointed in 1921 by his friend, President

⁴³ 4 U. S. Stat. L., 564.

Harding, from whose county in Ohio he came and with whose father he had served in the Civil War and at the age of seventy-six he took up the unfamiliar tasks of a big, though routine, bureau. Mr. Gardner was presumably the last of a long line of commissioners whose common and apparently indispensable qualification lay in the fact that they were veterans of the Civil War.⁴⁴ The appointment of the present commissioner, Winfield Scott, indicates that an attempt is being made to perpetuate the spirit if not the letter of this theory of the office. He served as a private in the Spanish American War and the Philippine Insurrection; he studied law, practiced it betimes, and was elected county judge and later mayor of Enid, Oklahoma; he rose in the Oklahoma national guard through all grades to major, and, re-entering military service in the World War, was advanced from captain to colonel.

Several branches of the Treasury Department have the kind of functions which lend superficial plausibility to the argument that their heads should be politically responsible. The direction of these bureaus seems to require merely the so-called general executive ability which successful business or professional life is supposed to develop in readily transferable form. Their ramifications are interesting as patronage. Under existing circumstances, it is natural that their heads should be as changeable as the complexion of the cabinet. The office of the commissioner of internal revenue is administratively the most important of these bureaus. It embraces not only the great income tax unit but also the prohibition unit⁴⁵ and a number of essentially regulatory activities connected with taxation. From the time of the

⁴⁴ One of the commissioners since 1897 (not to go further back) had prior service in the Bureau of Pensions itself. James L. Davenport, head of the bureau from 1909 to 1913, had been clerk for sixteen years and first deputy commissioner for twelve years before his appointment. He was, of course, a Civil War veteran.

⁴⁵ The director of prohibition, James E. Jones, is not treated in this study, being regarded as a division head rather than a bureau chief. When appointed director in 1925, he had been assistant prohibition commissioner for over four years and previously had been with the Department of Agriculture for twenty-eight years. A bill (H.R. 10729) to establish a prohibition bureau was introduced in the 69th Congress, first session, and passed the House of Representatives on May 27, 1926.

establishment of this virtual bureau in 1862,⁴⁶ there have been twenty-three commissioners, of whom twelve served two years or less and only three as long as seven years. None in recent years has been appointed from the personnel of the bureau itself, although several have had prior connections with other branches of the national government. David H. Blair, who has been commissioner since May, 1921, held no public office before his appointment at the age of fifty-three. A graduate of Haverford in 1891 and a school teacher in early manhood, for twenty-four years he had practiced law in Winston-Salem, North Carolina.⁴⁷

The position of director of customs was established by an act of 1923,⁴⁸ in lieu of the post of chief of the customs division which had been cared for in the annual appropriation acts but not specifically mentioned by statute. The act states that the director is to be chosen by the Secretary of the Treasury "pursuant to the civil service laws and regulations." E. W. Camp, however, had already been made chief in January, 1922, under an executive order that permitted his appointment without examination.⁴⁹ His selection was a phase of a so-called reorganization of the customs service that attended the consummation of the Republican tariff policy. Mr. Camp's acquaintance with the problem of customs had been gained by eleven years' service as

⁴⁶ 12 U. S. Stat. L., 432.

⁴⁷ There was a predilection, seemingly, in favor of a Southern Republican for the post. It was understood that C. Bascom Slemp, of Virginia, later the President's secretary, declined appointment. Mr. Blair's name was challenged by Senator Johnson, of California, who complained of Mr. Blair's action as a delegate in the 1920 convention and who also declared that, as the son-in-law of one of the richest men in the state, Mr. Blair was related to persons who naturally had many matters for adjustment in the income tax unit. The Senate committee on finance held a hearing behind closed doors in May, but recommended confirmation.

⁴⁸ 42 U. S. Stat. L., 1453, March 4, 1923. Even before the passage of this act, the customs division was distinguishable by reason of its duties and its field forces from other so-called divisions of the Treasury Department, such as loans and currency, paper custody, secret service, etc., which are not regarded as bureaus for the purposes of this paper. Their heads are, of course, classified employees. H.R. 10729 (passed by the House of Representatives on May 27, 1926) proposes to give statutory recognition to a customs bureau as such.

⁴⁹ Executive Order of January 25, 1922. *39th Report of the United States Civil Service Commission, 1921-1922*, p. 129.

clerk to Representative Joseph Fordney, beginning in 1906 at the age of nineteen, and as clerk of the House committee on ways and means—of which Mr. Fordney had meanwhile become chairman—from 1919 to 1922.

The duties of the treasurer of the United States are much more routine in character. The roster of the twenty-five occupants of the office since 1775 contains a few early instances of protracted service, but terms since 1875 have been relatively short and conditioned by party success. It happens that both the present treasurer, Frank White, and his predecessor, John Burke, were previously governors of North Dakota, although of course, representing different parties. Neither had been in national administration before his appointment.

V

Generalization, or even summary, is difficult where subject-matter is so personal, situations so disparate, and the underlying needs of administration so baffling to precise analysis. The facts themselves—disjointedly presented and confessedly superficial—are left to teach what lessons they can. The individual canvass of the bureau chiefs now in office reveals a degree of stability and a prevalence of selection by formal or virtual promotion which are greater, to say the least, than is ordinarily assumed. Of the fifty-four bureaus examined in the body of the text, forty-two are at present under the direction of persons who were already in national administrative service at the time of their elevation to leadership or who were taken from some closely related state employment. If this is reason for gratification, there is all the more challenge—regardless of the personalities involved—in the persistently political status of the heads of bureaus as important as the General Land Office, Indian Affairs, Pensions, Navigation, Patents, Immigration, Internal Revenue, and the offices of the Comptroller of the Currency and the Treasurer of the United States.

The supposed distinction between scientific and non-scientific bureaus is outworn in its bearing on this whole problem. It undoubtedly served a useful purpose in hastening the liberation of

certain branches of national administration.⁵⁰ It is a distinction, however, that is now likely to impede progress by the implication it seems to carry regarding the relation of partisan policy to the so-called non-scientific bureaus. The rôle of the politically responsible chief executive and his department heads in setting what can be termed tone in administration is generally recognized. There is no type of bureau, however, wherein all the changes of viewpoint, emphasis, and method—tone, in short—which are within the scope of propriety cannot be communicated through a permanent bureau chief, assuming, of course, that he has been soundly selected in the beginning and has not deteriorated personally.⁵¹ For the purpose of legitimate changes, a well-trained staff and stable chief are likely in practice to be more effective than a blunt instrument in the form of a new, ill-adjusted man. If the changes that are desired cannot be formulated unmistakably, it is apt to mean either that the chief executive is

⁵⁰ The conditions which once surrounded even such services as the Coast and Geodetic Survey are suggested in the following sentences in a very human letter to the writer from a civil service employee who is now chief clerk in an important bureau. Referring to his appointment about 1890 to the then unclassified post of messenger in the Coast and Geodetic Survey, he says: "I remained there safely through the Cleveland administration—with one narrow escape. The change in the White House brought to Washington a horde of office seekers—and jobs were scarce. They finally got around to the Coast Survey. Secretary of the Treasury Carlisle placed a small political scout in the janitorship of the bureau. It was his business to get acquainted, spot the jobs beyond the pale of the Civil Service—and send the names of the incumbents to headquarters. No place was too unimportant to be overlooked. The heads of laborers and messengers went into the basket along with the heads of division chiefs. It looked like my days were numbered, but fortune intervened. The 'janitor' had a wife who was a newspaper writer. Her stories sold better when typed. She had no one to do her typing. I had learned typing. One day she asked me to type a story. I did so and made some corrections in the copy that pleased her. I became indispensable to her. Result, hubby kept hands off and I still had my job when McKinley came in. I may say that when the 'janitor' finished his clean-up job he was made a chief of division in the same bureau."

⁵¹ Dr. Charles D. Walcott, head of the Smithsonian Institution and at one time director of the Geological Survey, speaking with forty-five years of observation in Washington behind him, makes the following comment apropos of some inquiries from the writer: "The gradual degeneration of brilliant and well trained minds and bodies often brings about the most troublesome and trying situations. It cannot be explained to the one affected or his friends." This problem, however, is common to all types of bureau and has nothing to do with policy as such.

too lacking in grasp to be able to analyze, prescribe, and explain, or that the changes desired are not matters on which he cares to be explicit. When they can be apprehended only intuitionally and then only by personal friends or fellow-partisans, they probably concern such matters as a discreet awareness of patronage, or tactful treatment of a favored interest, or the shaping of information or opinion given out in the name of the bureau. One of the most important practical motives for the partisan control of such officers as bureau chiefs is the desire to make sure that the right things are said about such sensitive points as the result of a tariff policy, a farm-relief program, the universality of prosperity, or the prospects of business depression. Is it not precisely here that there is the greatest need for detachment and for the type of recruitment and the conditions of tenure that encourage it?

The comments of a former secretary of agriculture are of interest in connection with the problem of the responsiveness of a stabilized system of bureau chiefs. After remarking on the fact that the positions of all but one of the chiefs in the Department of Agriculture are in the classified service, David F. Houston (Secretary of Agriculture during the Wilson administration and Secretary of the Treasury during the last year of that administration) thus answers the question whether he felt himself impeded by the status of his chief subordinates:⁵² "I was not aware when I was in the Department of Agriculture that this status of bureau chiefs hampered me in whatever efforts I made to improve the administration of the Department and to get policies executed. On the contrary, I think the high character of the bureau chiefs, who are appointed for merit, made it easier to secure the adoption and execution of sound policies. . . . My own judgment is that it would be desirable to place the personnel of all the departments in Washington in the classified service with very few exceptions.

⁵² The quotation is from a personal letter to the writer on March 4, 1926. In his published account of his official experience, Mr. Houston testifies to the relief experienced by a new cabinet member whose department is characterized by stability of tenure. Referring to the discussion of patronage at the first meeting of the new cabinet in 1913, he writes: "I knew that I would not be bothered much with office-seekers because there are only four or five officers in the Department of Agriculture who are not in the classified service." *Eight Years with Wilson's Cabinet* (1926).

For matters of political policy, it is sufficient that the heads of departments, the assistant secretaries, and very few other officers change."⁵³

The facts give no support to the widely-held belief that the application of the principles of the merit system, selection by promotion, and permanency of tenure gives rise to a group of bureau chiefs who are older in years than those who are chosen from outside the government service. Age at the time of appointment to the post of chief and age at the present time are given for the bureau chiefs individually in an accompanying table (Table II, *infra*, pp. 808-111) and averages are struck in a subjoined note.⁵⁴ The figures as they there appear are unfavorable

⁵³ Another former department head—George B. Cortelyou, who at various times held the portfolios of Commerce and Labor, the Post Office, and the Treasury—does not go quite so far as Mr. Houston. Mr. Cortelyou writes: "It will generally be conceded that the head of an executive department is entitled to have as his principal assistants persons approved by him, selected without reference to the restrictions of the classified service, who are in full sympathy with his plans and those of the national administration and will carry them out wholeheartedly. Some bureau chiefs, by reason of the character of their responsibility and the nature of their duties, would come under this heading, while others would not. I do not know any fairer test than this, in determining whether a given position might properly be included in the classified service. And when applied with discretion, as it should be, it will be found to exempt a much smaller number of positions than is generally supposed" Elsewhere in his letter, Mr. Cortelyou indicates that he regards the Comptroller of the Currency, the Treasurer of the United States, the Director of the Budget, and the Commissioner of Internal Revenue as belonging to the first group because of "their relation to the policies of the national administration."

⁵⁴ Average ages of present bureau chiefs, considered by groups:

Group	Number of bureaus in group	Age at which appointed chief	Present age
Appointed from inside national service	38	46	55
Appointed from outside national service	16	50	53
Appointed under civil service	25	46	54
Promotion	19	47	56
Rule II, sec. 10	4	45	50
Examination	2	43	44
Commissioned services	3	46	53
Unrestricted appointment but from inside national service	15	49	55

enough to the notion that the unrestricted presidential system of appointment really imports fresh young blood. This lesson is emphasized when the bureaus are regrouped, and on the one hand the cases of appointment of officers who have had experience in closely related state work are counted with the instances of selection from within the national service, whereas on the other hand a few merely nominal cases of selection from within are put with the group of appointments from outside the government personnel. In point of age at the time of selection as chief, the two groups average respectively, 45 and 53 years, and in point of present age, 54 and 57.

There is a further aspect of the factor of age and the related question of diminishing returns from long tenure. In the nature of things, the position of bureau chief is not the cambian layer of administration.⁵⁵ The creative tissue, where the bark is green and the thing really grows, lies a step nearer the details of the work, with the division heads and with what the Department of Agriculture calls project-leaders. The bureau chief is a co-ordinator of the energies of others. He stands between the transitory department heads and the necessarily shifting personnel below. He knows Washington. He understands public relations. He is acquainted with Congress. He is wary of politics. Personally, dining day after day at such places as the Cosmos Club, he is in touch with other bureau chiefs. Especially when he is aided by the strengthened morale that a wise policy of internal recruit-

Unrestricted appointment from outside na- tional service	11	32	56
<hr/>			
Departments			
Interior	7	50	56
Agriculture	19	45	54
Commerce	10	47	53
Labor	7	52	57
Treasury	11	49	54

⁵⁵ The phrase is taken from remarks by Dr Stockberger, director of personnel and business administration in the Department of Agriculture, but originally a botanist.

ment of bureau chiefs does much to encourage,⁵⁶ he can keep young in the plans of sympathetic subordinates.

Tenure and appointment are, of course, distinguishable if not separable problems. In connection with the latter, moreover, selection from within the service is not the only way (nor is it an infallible one) by which propaedeutic experience is assured.⁵⁷ Each case of appointment and removal must be judged upon its individual merits. In the present condition of public administration in the United States, however, doubts should be resolved in favor of the principles of stability and of promotion, to the extent that departures from them should incur frank suspicion and undergo unusually close scrutiny in connection with the unremitting vigilance with which all changes of bureau chiefs should be regarded.⁵⁸

A type of examination is available which would require the principle of promotion to vindicate itself in each instance against an open field, and which in addition would allow the executive to explain his difficulties and needs with the utmost candor. It was first used less than a year ago in the selection of the head of the chemistry division of the Bureau of Standards. "Instead of the usual form of civil service examination," said the announce-

⁵⁶ At the time of his appointment as director of the Forest Service, W. B. Greeley wrote to the Secretary of Agriculture: "Your action in the selection of successors for Col. Graves and Mr. Potter from our own ranks has been of the greatest possible encouragement and stimulus to the whole organization. Its reactions are reaching me every day. You have not only recognized individual men, but you have recognized the work of the entire body and thereby given every member of it a great incentive to exert his best efforts."

⁵⁷ The evolution of our federal system is multiplying the phases of administration in which it is desirable that the national government should enlist officials with state experience and points of view. The success of indirect federal administration in Germany, for example, has been due in part to the custom of recruiting the officers of the central departments (so largely confined to the drafting and interpretation of laws) from the state services. Where possible, however, it is desirable that state officials should be imported at the level of division heads or below, rather than directly as chiefs of bureau. An example of good practice in this regard was the appointment in 1925 of Dr. Blanche M. Haines, director of the Michigan bureau of child hygiene, to be head of the division of maternity and child hygiene in the Children's Bureau, in charge of the cooperative act of 1921.

⁵⁸ In its department of American government and politics the REVIEW proposes to report currently on future changes in these offices. *Managing Editor.*

ment, "the qualifications of candidates will be passed upon by a special board of examiners, composed of Dr. George K. Burgess, director of the Bureau of Standards; Dr. F. G. Cottrell, director of the fixed nitrogen research laboratory of the Department of Agriculture; Dr. W. A. Noyes, dean of chemistry of the University of Illinois; Dr. W. L. Whitney, chief of the research laboratory of the General Electric Company; and Mr. Frederick W. Brown, examiner of the United States Civil Service Commission. For the purpose of this examination, all of these men will be examiners of the Civil Service Commission. The examination will consist solely of a consideration of qualifications by this special board." This plan seems especially adapted to the appointment of chiefs of bureaus. In its essentials, it can be applied universally without statutory change, to the bureau heads who are appointed by the President with the consent of the Senate. There is an opportunity here for a President and for department heads who are genuinely interested in administrative progress.

TABLE I
TENURE OF BUREAU CHIEFS, 1857-1926
 showing also changes in presidency, cabinet and party control

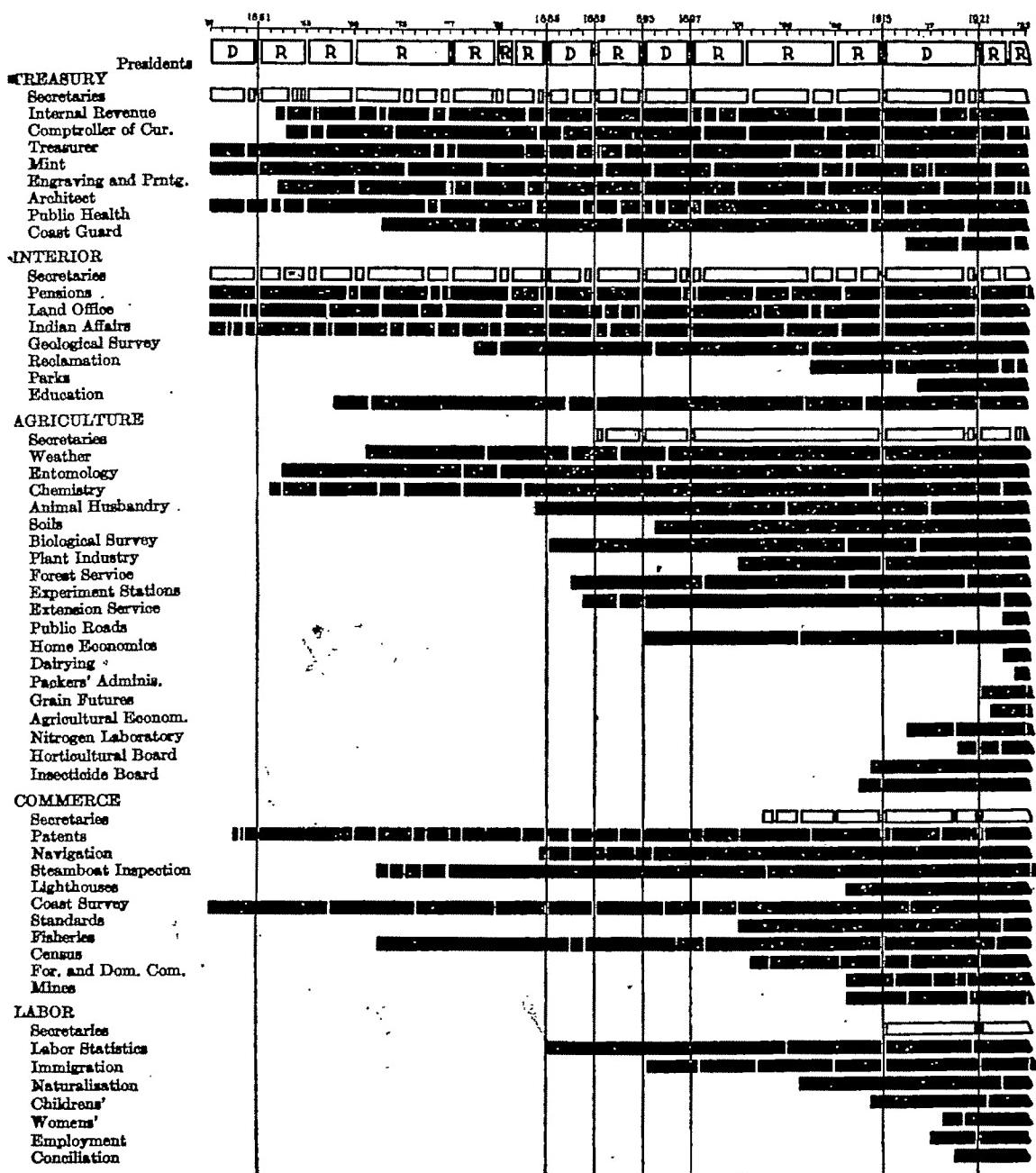


TABLE II
APPOINTMENT AND TENURE OF PRESENT BUREAU CHIEFS

Classification,* and name of bureau	Name of present chief	Date of appointment as chief	Date of original entry into national service	Age at time of appointment as chief	Age at present time (1926)	Years of service as head of bureau	Salary in 1925
A. APPOINTED BY SECRETARY, UNDER MERIT SYSTEM							
1. Selected by promotion							
<i>Agriculture</i>							
Botany	L. O. Howard	1894	1878	37	69	32	\$6,500
Soils	M. Whitney	1894	1892	34	66	32	6,000
Plant Industry	W. A. Taylor	1913	1891	49	63	14	6,500
Biological Survey	E. W. Nelson	1916	1877	61	71	10	6,000
Animal Industry	J. R. Mohler	1917	1891	42	51	9	6,500
Forest Service	W. B. Greeley	1920	1904	41	47	6	6,500
Experiment Stations	E. W. Allen	1923	1890	69	92	3	5,400
Entomology Service	C. W. Warburton	1923	1893	44	47	3	7,500
Horticulture	C. W. Lamm	1924	1917	43	46	2	6,000
Grain Futures	J. W. T. Drury	1925	1902	51	53	1	0,000
Horticultural Board, Chr.	C. I. Marlatt	1912	1891	49	63	14	6,000
Insecticide Board, Chr.	J. K. Haywood	1913	1897	38	51	13	5,200
Nitrogen Research Lab.	F. G. Coitrell	1922	1911	45	49	4	6,000
<i>Labor</i>							
Naturalization	R. F. Crist	1923	1884	51	55	4	6,000
<i>Treasury</i>							
Engraving and Printing	A. W. Hall	1925	1918	36	38	2	6,500
Supervising Architect (acting)	J. A. Watmore	1916	1835	52	63	11	6,200
Supply	D. C. Vaughan	1923	1893	50	53	3	4,600
Public Debt Service	W. S. Broughton	1919	1899	45	52	7	6,500

BUREAU CHIEFS IN THE NATIONAL ADMINISTRATION

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2. Selected without competitive examination, with approval of Civil Service Commission, under Rule II, sec. 10.								
<i>Agriculture</i>								
Chemistry	C. A. Browne	1923	1906-7	53	56	3	6,500	
Public Roads	T. H. MacDonald	1919	†	38	45	7	6,500	
Home Economics	Louise Stanley	1923	†	40	43	3	6,000	
<i>Interior</i>								
National Park Service	S. T. Mather	1917	1915	50	59	9	6,500	
<i>Agriculture</i>								
Packers and Stockyards	J. T. Caine III	1925	†	43	44	1	6,000	
Agricultural Economics	T. P. Cooper	1925-6	†	44	45	10 mo.	6,000	
	L. S. Tenny (acting)	1926	1902-10 1921-	49	49	4 mo.	6,000	
B. APPOINTED BY SECRETARY, BUT EXEMPT								
1. Position itself exempt								
<i>Labor</i>	H. L. Kerwin	1919	1913	40	53	7	\$ 5,600	
Conciliation Service	F. T. Jones	1921	1918	56	61	6	5,200	
Employment Service	R. Watson	1920	1906	34	40	6	5,000	
Industrial Housing								
2. Incumbent personally exempted								
<i>Treasury</i>	E. W. Camp	1922	—	34	39	5	6,500	
Customs								

* The arrangement of bureaus in this table is not identical with that employed in the body of the article. The table is not intended to stand alone, being subject, at points too numerous to indicate, to qualifications expressed in the text.

† Attention is particularly called to the appointee's prior state service.

TABLE II, continued

Classification, and name of bureau	Name of present chief	Date of appointment as chief	Date of original entry into national service	Age		Years of service as head of bureau	Salary in 1925
				at time of appointment as chief	at present time (1926)		
C. APPOINTED BY PRESIDENT AND SENATE FROM COMMISSIONED CORPS							
<i>Treasury</i>	H. S. Cumming	1920	1894	50	56	6	7,500
Public Health Service	F. C. Billard	1924	1894	50	53	3	7,500
<i>Coast Guard</i>							
<i>Commerce</i>	E. L. Jones	1915	1913	39	50	11	6,478
D. APPOINTED BY THE PRESIDENT ALONE WITHOUT RESTRICTION							
<i>Interior</i>	E. Mead	1924	{ 1892-3; 1897-'07	66	68	2	10,000
Reclamation Service**	G. R. Putnam	1910	1900	45	61	16	6,500
<i>Commerce</i>							
E. APPOINTED BY THE PRESIDENT WITH CONSENT OF SENATE							
1. Taken from within national administration							
<i>Agriculture</i>	C. F. Marvin	1913	1884	54	67	13	6,500
<i>Weather</i>							
<i>Interior</i>	G. O. Smith	1907	1896 1	36	55	19	6,500
<i>Geological Survey</i>							
<i>Commerce</i>	G. K. Burgess	1923	903	49	51	3	6,500
Standards							

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Fisheries	H. O'Malley	1922	1897	46	50	4	6,500
Steamboat Inspection	D. N. Hoover	1926	1903	44	46	2	6,500
Census	W. M. Stewart	1921	1880	59	64	5	6,500
Foreign & Domestic Com.	J. Klein	1921	1917	35	40	5	6,500
<i>Labor</i>							
Labor Statistics	E. Stewart	1920	1857	63	69	6	8,000
Children's Bureau	Groce Abbott	1921	1917-9	42	47	5	6,000
Women's Bureau	Mary Anderson	1919	1918	47	54	7	5,400
<i>Treasury</i>							
Mint	R. J. Grant	1925	1921	60	63	3	5,600
Comptroller of Currency	J. W. Mcintosh	1924	1920	50	52	2	12,000
2. Taken from outside national administration							
<i>Commerce</i>							
Mines	S. Turner	1925	—	45	46	1	6,000
Navigation	D. B. Carson	1921	—	64	69	5	6,500
Patents	T. E. Robertson	1921	—	60	55	5	6,500
<i>Interior</i>							
Education	J. J. Tigert	1921	—	39	44	5	6,500
General Land Office	William Spry	1921	—	57	62	5	6,500
Indian Affairs	C. H. Burke	1921	—	60	65	5	6,500
Pension Office	W. Scott	1925	—	46	47	1	6,000
<i>Labor</i>							
Immigration	H. E. Hull	1925	—	61	62	1	6,500
<i>Treasury</i>							
Internal Revenue	D. H. Blair	1921	—	53	58	5	10,000
Treasurer	F. White	1921	—	64	69	5	8,000

** Grouped in this table in accordance with act approved May 26, 1926. The position was previously in the classified service.
The new salary is shown; the salary in 1925 was \$7,500.

ADVISORY COMMITTEES IN BRITISH ADMINISTRATION

JOHN A. FAIRLIE

University of Illinois

A comparatively recent development in British public administration has been the creation of advisory committees or consultative councils in connection with a number of government offices. It is probable that government officials have at times in the past held consultations with small groups of citizens without any formal organization or requirement. Temporary commissions and committees have also been set up from time to time including members of Parliament and private citizens. But the new tendency establishes such committees as a regular part of the machinery of public administration, and in some cases involves the official recognition and coöperation of professional and other voluntary organizations.

The Board of Education Act, 1899, authorized a consultative committee to represent universities and other bodies interested in education. This was first established by order in council of August 7, 1900, and somewhat modified in 1907. During the World War sittings of this committee were suspended. But a new committee was appointed by order in council on July 22, 1920, to consist of twenty-one members, the term of seven to expire every two years. Four of the members appointed were women.¹

The Trade Boards Act, 1909, provided for district trade committees, to be organized, at first under regulations issued by the Board of Trade, and later (1916) by the Minister of Labour.²

The National Insurance Act, 1911, provided for insurance committees in every county and county borough,³ and the

¹ Statutory Rules and Orders, 1920, No. 1582 (p. 522). There is a similar advisory council for the Scottish Education Department.

² 9 Ed. VII, c. 22; 6-7 Geo. V, c. 68; S. R. & O. 1910, p. 835; 1914, III, p. 303.

Pilotage Act, 1913, authorized the Board of Trade to appoint an advisory committee of pilots, shipowners, representatives of pilotage and dock and harbor authorities, and others interested or having special knowledge.

The Police, Factories (Miscellaneous Provisions) Act, 1916, provided for an advisory committee to advise on regulations for street collections. This committee is appointed by the commissioner of police for the Metropolitan District and approved by the Home Secretary.⁴

Some advisory committees have also been established without statutory authority, such as a business-men's committee of the Post Office, and certain specialized committees, as the adult education committee at the Board of Education and the prison education committee at the Home Office.⁵

Among the hundreds of new agencies established during the World War were a large number of temporary advisory boards, committees, and councils, set up by administrative orders without express statutory authority. The following list of such advisory bodies is probably incomplete:⁶

Agriculture Ministry:

Agricultural Consultative Committee, August, 1914

Food Productive Advisory Committee, June, 1915

Food Prices Committee, June, 1916

Advisory Committee to the Food Productive Department, 1917
Board of Trade:

War Risks Advisory Committee, August, 1914

Advisory Committee on Commercial Intelligence, July, 1915

War Trade Advisory Committee, September, 1915

Advisory Board to the Coal Mines Department

Committee for securing adequate supplies of Alcohol, December, 1916

³ Continued by the revised National Insurance Act, 1924 (14-15 Geo. V, c. 38). This provides also for local medical and pharmaceutical committees to be consulted by the insurance and district committees.

⁴ Statutory Rules and Orders, 1923, No. 1133 (p. 558).

⁵ Laski, *A Grammar of Politics*, pp. 327, 375; Beveridge, *The Public Service in War and Peace*.

⁶ Fairlie, *British War Administration*.

Central Leather Supplies Advisory Committee, 1917

Building Trades Central Advisory Committee

Lubricating Oil Advisory Committee

Mineral Resources Advisory Committee

Advisory Wages Boards, 1917

Advisory Council to Department of Commerce and Industry

Food Ministry:

Consumers' Council

Food Control Committees, August, 1917

Port Feeding Stuffs Committee, 1917

Provincial Food Stuffs Committee, 1917

Butter Supplies Advisory Committee

Poultry Advisory Committee

Tea Advisory Committee

Rationing Consultative Committee

Home Office:

Aliens Restrictions Regulations Advisory Committee

Enemy Aliens (Internment and Repatriation) Advisory Committee

Committee on the Coal Mining Industry, February, 1915

Aliens Advisory Committee, May, 1915

War Charities Committee, April, 1916

Central Committee on Women's Employment

Women's War Employment Advisory (Industrial) Committee

Procurator General's Advisory Committee

Ireland:

Food Production in Ireland (Advisory) Committee

War Savings Committee

Womens' Employment Committee (Central)

Womens' Employment Committee (Ulster)

Local Government Board:

Relief of Distress Committee, August, 1915

Seven sub-committees

Labor Ministry:

Advisory Committees (7) on trades for discharged soldiers
and sailors

Munitions Ministry:

Munitions Advisory Committee
Munitions Financial Advisory Committee
Munitions Priority Advisory Committee
Health of Munitions Workers Committee, September, 1916
Committee on Women in Munitions Work, November, 1916
Metals for Munitions Committee, November, 1916
Committees on Copper and on Bleaching Materials, December, 1916
Agricultural Machinery Advisory Committee, January, 1917

National Service Department:

Central Advisory Committee
Labor Advisory Committee, 1917

Reconstruction Ministry:

Advisory Council
Disposal of War Stores Advisory Board
Housing (Advisory) Panel

Scotland:

Scottish Advisory Committee on Aliens, May, 1915
Scottish Food Production Committee, June, 1915
War Savings (Scotland) Committee, June, 1916

Treasury:

War Savings Committee, February, 1916
Advisory Committee (Customs and Excise), March, 1917

War Office:

Aeronautics Advisory Committee
Army Contracts Advisory Committee
Chaplain's (Army) Advisory Committee
Soldiers Liabilities Committee, May, 1916
Wool Purchases Central Advisory Committee, August, 1916.
The Machinery of Government Committee, of which Lord Haldane was chairman, called attention to such advisory committees and reported that: "So long as the advisory bodies are not permitted to impair the responsibility of ministers to Parliament, we think that the more they are regarded as an integral part of the normal organization of a department, the more will ministers be enabled to command the confidence of Parliament

and the public in their administration of the services which seem likely in an increasing degree to affect the lives of large sections of the community."⁷

Since the war a considerable number of new advisory committees have been provided for by acts of Parliament.

The Ministry of Transport Act, 1919, provides for a rates advisory committee, a roads advisory committee, and a panel of persons from which other advisory committees might be appointed. The rates advisory committee consists of five persons: one, with experience in the law, appointed by the Lord Chancellor; two representatives of trading and agricultural interests, nominated by the Board of Trade after consultation with the Associated Chambers of Commerce, the Central Chamber of Agriculture, and other interests concerned; one representative of transportation interests, nominated by the Minister of Transport; and one representative of labor, nominated by the Minister of Labor after consultation with the parliamentary committee of the Trades Union Congress and other interests concerned; and, if deemed advisable, one additional member appointed from time to time. Proposed changes in rates, fares, etc., must be referred to this committee, for inquiry after notice.

The roads advisory committee consists of not less than eleven members, five representatives of highway authorities, appointed after consultation with such authorities; five representatives of users of horses and mechanical road traffic, appointed after consultation with the interests concerned; and one representative of labor, appointed after consultation with the interests concerned.

The panel for other advisory committees is to consist of experts and persons of wide commercial and trading experience, appointed from nominees, after consultation with the various undertakings and interests concerned, of the various classes of undertakings affected by the act, and of labor, trading interests, local authorities and such other interests as the Minister of Transport shall deem desirable. Questions relating to transport services (railways,

⁷ *Report of the Machinery of Government Committee* (1918), p. 12.

canals, and piers) are to be referred to committees from this panel.⁸

The Ministry of Health Act, 1919, authorized the formation of consultative councils; and four such councils were set up by order in council for medical and allied services, national health insurance (approved societies work), local health administration, and general health questions, each to consist of not more than twenty members having practical experience. A Welsh consultative council, of not more than thirty members, has also been established. The consultative council on national health insurance (approved societies work) has been enlarged to consist of not more than forty members.⁹

The Ministry of Agriculture and Fisheries Act, 1919, provides for a council of agriculture for England, a council of agriculture for Wales, an agricultural advisory committee for England and Wales, and county agricultural committees. Under the Seeds Act, 1920, the Minister of Agriculture, before making regulations, is to consult representatives of the interests concerned.¹⁰

Similar provisions for advisory and consultative committees are in the acts for the Scottish department of agriculture and the Scottish Board of Health.

Under the Police Act, 1919, the Secretary of State is authorized to make regulations as to the government, mutual aid, pay, allowances, provisions, clothing, expenses, and conditions of service of members of all police forces in England and Wales. Proposed regulations are to be submitted to a council consisting of the joint control committee, or a deputation from the joint control committee of the Police Federation (an organization of those in the local police forces, established by the act), and representatives from the chief officers of police and police authorities selected by the Secretary of State after consultation with the County Councils Association and the Association of Municipal Corporations, and before making such regulations the Secretary

⁸ 9-10, Geo. V, c. 5, Nos. 21, 22, 23.

⁹ 9-10, Geo. V, c. 20; Statutory Rules and Orders, 1919, Nos. 1281, 1282; 1923, No. 768; Newsholme, *The Ministry of Health*.

¹⁰ 9-10, Geo. V, c. 91.

of State shall consider any representations made by such council.¹¹

Under the Electricity (Supply) Act, 1919, the Electricity Commissioners may appoint a committee or committees consisting of chairmen or other members of joint electricity authorities established under the act, of representatives of authorized undertakings or other specially qualified persons, for the purpose of giving the commissioners advice and assistance on such matters connected with the general improvement and development of the supply of electricity as may be referred to the committee by the commissioners; and the commissioners shall take into consideration any representations which have been made to them by any such committee.¹²

Advisory committees to the Board of Trade have been authorized by the Mining Industry Act, 1920, the Dyestuffs (Imports Regulation) Act, 1920, and the Safeguarding of Industries Act, 1921.

Under the Mining Industry Act, 1920,¹³ the Board of Trade is required to appoint committees for advice and assistance in matters relating to the coal industry and to the metalliferous mining industry respectively; and may appoint one or more other committees for other matters; and in appointing members of any committee shall act after consultation with the various interests concerned. More specifically, the committee on the coal industry is to consist of a chairman and twenty-four others—four representatives of the owners of coal mines, four representatives of the workers, three representatives of employers in other industries, three representatives of workers in other industries, one mining engineer, two agents or managers or under-managers of coal mines, one coal exporter, one coal factor or coal merchant, one with experience of commerce other than the production and distribution of coal, one with experience in coöperative trading, and three with expert knowledge of medical or other science. Provision is also made for pit and district committees, area

¹¹ 9-10, Geo. V, c. 46; Police Regulations, 1924.

¹² 9-10, Geo. V, c. 100, § 4.

¹³ 10-11, Geo. V, c. 50, §§ 4, 7.

boards and a national board, composed of representatives of owners, managers, and workers.

The Dyestuffs (Imports Regulation) Act, 1920,¹⁴ provides for an advisory committee to consider applications for licenses, to consist of five persons concerned in the trades in which goods of the class prohibited to be imported are used, three persons concerned in the manufacture of such goods, and three persons not directly concerned, one of the last group to be chairman. Provision is also made for a committee of persons employed in the trades of dye maker or dye user, to advise on the efficient and economical development of the industry.

Under the Safeguarding of Industries Act, 1921,¹⁵ complaints of "dumping" are to be referred to a committee for inquiry, and on report of the committee the Board of Trade may apply an import duty of 33½ per cent, subject to approval by Parliament. Committees consist of five persons, selected by the President of the Board of Trade, from a permanent panel of persons appointed by him, mainly persons of commercial or industrial experience. Any person whose interests may be materially affected is not eligible as a member of a committee. Inquiries are to be public, except in hearing evidence of a confidential character.

The London Traffic Act, 1924,¹⁶ provides in detail for an advisory committee to the Minister of Transport, to consist of a chairman, elected by the committee, one member appointed by the Secretary of State, two by the London County Council, two by the councils of the metropolitan boroughs, and one each by the corporation of the City of London, the county councils (in the London traffic area) north of the Thames, the county councils (in the same area) south of the Thames, the county boroughs in the London traffic area, a representative of the metropolitan police district, appointed by the Secretary of State, a representative of the City police, appointed by the corporation of the City of London, and one appointed by the Minister of Transport. Provision is also made for seven additional members, three to be

¹⁴ 10–11, Geo. V, c. 77, § 2.

¹⁵ 11–12, Geo. V, c. § 2.

¹⁶ 14–15, Geo. V, c. 34.

representatives of labor to be appointed by the Minister of Labor, and four representatives of persons furnishing transport or using vehicles, to be appointed by the Minister of Transport after consultation, to act when considering traffic regulations.

The Agricultural Wages (Regulation) Act, 1924, provides for an agricultural wages board and district agricultural wages committees. These are to consist of members representing employers and workers in equal proportions, with a few additional members appointed by the Minister of Agriculture. Under regulations of the minister, the representatives of employers are nominated by the Council of the National Farmers Union, and the representatives of workers by the executive committee of the National Union of Agricultural Workers and the general executive committee of the Workers' Union.¹⁷

Under the Acquisition of Land (Assessment of Compensation) Act, 1919, provision was made for reference committees for England and Wales, for Scotland, and for Ireland, which were to make rules for the appointment of official arbitrators and to appoint arbitrators. The committee for England and Wales consists of the Lord Chief Justice, the Master of the Rolls, and the President of the Surveyors Institution. Under the Law of Property Act, 1925, this committee may also make rules as to applications for discharge and modifications of restrictive covenants on lands, and (subject to Treasury approval) to prescribe fees.¹⁸

Under the Therapeutic Substances Act, 1925, for the regulation of the sale of vaccines, toxins, antitoxins, salvarsan, insulin, and pituitary injections, there is provision for an advisory committee to be consulted as to regulations determining standards and licenses to be issued by a joint committee consisting of the Minister of Health, the Secretary for Scotland, and the Minister of Interior of Northern Ireland. The advisory committee is to consist of three members appointed, one each by the Minister of Health, the Scottish Board of Health, and the Minister of Interior for Northern Ireland, and five members, appointed one

¹⁷ 14-15, Geo. V, c. 37; Statutory Rules and Orders, 1924.

¹⁸ 9-10, Geo. V, c. 57; 15 Geo. V, c. 20.

each by the Medical Research Council, the General Medical Council, the British Medical Association, the Council of the Pharmaceutical Society, and the Council of the Institute of Chemistry.¹⁹

Detailed information as to the operation of such advisory committees is not available; but the multiplication of such bodies in recent years is an indication that they have been found useful. As already noted, they were endorsed by the Machinery of Government Committee in 1918. Sir Andrew Ogilvie has said that the local advisory committees of business men on public telephones "did most excellent work in the provinces." Sir William Salter writes that "committees are an invaluable instrument for breaking administrative measures on the back of the public."²⁰ H. J. Laski states that "of the value of advisory bodies, there is now no room for doubt."²¹

Mr. Laski, in his *Grammar of Politics* has also set forth his views on the structure and functions of such committees. The committees, he believes, should be small, generally not more than twenty; and should be specialized rather than covering the whole field of a department. They should have a majority chosen by representative associations of different interests affected, and a minority chosen by the minister to represent the public and special interests sufficiently though indirectly concerned.

As to their functions, they should be consulted on proposed bills, on general administrative policy, and on regulations and orders, with power to make suggestions; and regulations and orders to which objection is made should not be issued without specific approval of the legislative body. But while they are to advise about administration, they are not to direct or control it; they are not to prepare policy; they cannot commit outside bodies; they should never have access to information about proposed purchases, nor in general be consulted about negotiations with foreign powers; and they should be confidential,

¹⁹ 15-16, Geo. V, c. 60.

²⁰ Salter, *The Development of the Civil Service*, 108, 220.

²¹ *A Grammar of Politics*, p. 376.

though decisions should be published if both minister and the committee think it desirable.²²

The safeguarding of industries committees have been criticized by Liberals as instrumentalities for establishing protective duties, "after farcical inquiries," by the present Conservative government.²³ This may be compared to the recent criticism of the Tariff Commission in the United States.

²² *A Grammar of Politics*, pp. 377-383.

²³ *Contemporary Review*, vol. 130, p. 3 (July, 1926).

LEGISLATIVE NOTES AND REVIEWS

EDITED BY VICTOR J. WEST

Stanford University

The Legislative Reference Bureau in Recent Years. The legislative reference bureau has come to be so much an accepted part of governmental machinery that it is no longer the object of praise and attack that it was a few years ago. Like so many other structural reforms in government that were at first hailed as harbingers of the millenium or condemned as destructive or subversive factors, depending on the viewpoint of the commentator, the legislative reference bureau has realized neither the extravagant claims of its advocates nor the dire prophecies of its detractors.

It is worthy of note, however, that there are very few instances where states, having once committed themselves to a whole-hearted experiment in legislative reference work, have abolished their bureaus. There are numerous cases, of course, where the legislature has skimped the bureau on funds and thus curtailed its work, but this is almost the normal experience of many governmental institutions of proved worth. At the present time, almost everybody in any way connected with or conversant with the work of the state government will admit that a legislative reference bureau meets a real need and performs a valuable service. This does not mean, of course, that there is complete agreement as to the exact functions which the bureau shall perform, or as to the way in which it shall carry on its work. There remains a considerable difference of opinion on these matters.

At the present time, probably three-fourths of the states make provision for legislative reference work in some form or other, while it is likely that in the remaining states such functions are performed in such fashion as existing institutions find possible in the absence of *ad hoc* appropriations and facilities. Numerically there has been practically no expansion in the field of legislative reference work in the past ten years.¹ A few additional functions have, however, been put to test in existing bureaus, and several states have experimented with various

¹ The writer has received information indirectly to the effect that Louisiana is at present installing, or is about to install, a legislative reference service, but direct inquiry has failed to elicit any response from the State Library at Baton Rouge.

forms of administration and control. There have been, too, several noteworthy upheavals threatening the continued existence of bureaus. Such matters as these, indeed, comprise the only developments of note in legislative reference work during the past ten years.

Speaking broadly, it may be said that the general scope and nature of legislative reference work became pretty well fixed by 1916, and there have therefore not been any wide departures or notable extensions in the work during the intervening period. Some additions to the tasks allotted to the bureaus, however, and some variations in the accepted methods of carrying on recognized functions may be worth noting. To the customary function of keeping a card catalogue of bills introduced in the legislature and a record of their status to date, the Connecticut library adds an interesting variation in its practice of making photostat copies of all bills introduced.² The reason for this particular practice is the rule of the legislature that no bill shall be printed until it is favorably reported by a committee. A number of bureaus, for instance that of Illinois, have undertaken the task of preparing a periodical bulletin (the Illinois statement appears on the desk of the legislators every week) giving a brief of every bill introduced, together with a statement as to its progress and disposal up to the time of printing.³ The Virginia bureau goes a bit further in that it prepares, after the legislative session has ended, a lengthy commentary on the legislation passed during the session and its relation to the pre-existing statute law of the state. The pamphlet issued in 1921 covered over one hundred pages. It represents work undertaken, over and above the functions assigned by law, in a gratuitous attempt to extend the usefulness of the service.⁴

One activity which, it would seem, might normally go with the work of a legislative reference bureau is that of codification and consolidation of the statute laws. Of course, very few states are committed to a policy of codification. Nevertheless every state ought to make some provision for a periodic consolidation of its laws, in order that its statutes may not be in such a state of confusion as to be incomprehensible. Thus far only very few states have put such a function on their bureaus. The Pennsylvania bureau is a notable exception, it being specifically directed by a statute of 1923⁵ to undertake such work of that nature as the

² Report of the State Librarian of Connecticut, 1920, p. 23.

³ See, for instance, Illinois Legislative Reference Bureau, *Final Synopsis and Digest*, No. 22, 1923.

⁴ National Association of State Librarians, *Proceedings*, 1922, p. 22.

⁵ Pennsylvania Laws, 1923, ch. 119, sec. 7.

legislature may designate. The bureau has already issued several codes, the work being carried on in the interim between sessions of the legislature. Under a recent (1925) Indiana statute, the director of the bureau is made ex officio revisor of statutes, and is a "member of every commission which may be appointed by the governor or by virtue of any law to codify or revise any statute." But such work, to be carried on between sessions, is not to be undertaken except upon express authorization of the governor or the legislature.⁶ It is interesting to note that Wisconsin, which has made perhaps the most intensive use of its bureau of any state in the Union, provides a separate official, known as the revisor of statutes, not connected with the bureau, for the work of consolidating the statutes and bringing them up to date. Wisconsin is the only state in the Union, incidentally, that adheres to the practice of issuing a complete codification of its laws after every session of the legislature.⁷

Massachusetts has of late undertaken one of the most unique and interesting experiments along this line. For the past five years the state has maintained a system of continuous consolidation whereby, although no definite codification such as that of Wisconsin is made, the laws are kept up to date and classified in such a way that one can easily find the whole body of law upon a given subject. The work is carried on under statute of 1920,⁸ which provided for permanent counsel to the House and Senate who should "annually prepare a table of changes in the general statutes, an index to the acts and resolves, and shall from time to time . . . consolidate and incorporate in the General Laws all new general statutes . . . shall so far as possible draft all bills proposed for legislation as general statutes in the form of amendments of or corrections in the General Laws . . . may from time to time submit to the General Court such proposed changes or corrections in the General Statutes as they deem necessary or advisable. . . ." In connection with this scheme a loose-leaf method of binding the laws is used, so that new legislation can immediately be inserted in its proper place, and its relation to the pre-existing laws on the same subject becomes immediately evident.

During the past several years the bureaus have in various instances played important parts in connection with constitutional conventions.

⁶ Indiana Laws, 1925, ch. 58, sec. 17, p. 195.

⁷ E. E. Witte, "Governmental Agencies for the Improvement of Statute Law in Wisconsin," *Kappa Beta Pi Quarterly*, VIII, 55.

⁸ Massachusetts Laws, 1920, ch. 640.

In some cases, for instance the Illinois constitutional convention of 1919-20, the bureau was specifically directed by law to compile data of interest to the members of the convention, and a special appropriation was made to cover the work.⁹ A series of voluminous publications bearing on the diverse problems of state government, prepared by various authorities under the direction of the legislative reference bureau, was subsequently issued. The Pennsylvania bureau gathered a considerable amount of material in connection with the constitutional revision convention of 1921; while the New York and Nebraska bureaus also have aided conventions in their respective states. In some instances much valuable work of this sort has been done by bureaus without any specific direction from the legislature, and without any additional funds.

Perhaps the most lengthy and detailed list of duties assigned to any bureau is found in the Indiana law of 1925,¹⁰ which reorganizes the reference agency and incidentally renames it the "legislative bureau." In addition to the stock functions of reference library work and bill-drafting, the Indiana bureau is directed to compile statistical information of all sorts, and to edit the State Year Book; the director is ex officio revisor of statutes; the bureau is made the repository of all bills, resolutions, and documents introduced in the legislature, is assigned the task of printing and editing the House and Senate journals, and is directed to assist the secretary of state in preparing and indexing the acts passed by the Assembly.

There has been more experimentation in matters pertaining to control and administration of legislative reference bureaus than in the functions entrusted to them. The reason for such instability will be considered after several of the changes have been briefly set forth. Bureaus normally are placed under the appointing power of the governor, or of the legislature, or of some supposedly non-partisan body such as a library board; and in most cases there is no change from the type of control first chosen. A few states, however, have made such changes. The Pennsylvania bureau, for instance, which was formerly under the appointive power of the governor, was, in 1923, transferred to the direct control of the legislature.¹¹ Reference work in Michigan was recently taken out of the hands of the State Library and placed under the direct supervision of the legislature.¹² In 1919 Oregon, where informal reference work had

⁹ Illinois Laws, 1919, p. 63, sec. 1.

¹⁰ Indiana Laws, 1925, ch. 58.

¹¹ Pennsylvania Laws, 1923, ch. 119.

¹² Michigan Laws, 1921, ch. 71.

been carried on partly by the state library and partly by the attorney-general's office, directed the governor to appoint a bureau, but at the same time specified that the persons appointed should be the heads of certain designated departments in the state university.¹³ This penny-pinching policy has not gained the state anything, for until very recently this ex officio board has done practically nothing. Meanwhile reference work has been carried on as before. More serious results attended an administrative change effected a few years ago in North Dakota. That state, very early, had a flourishing legislative reference service in connection with its state library, but in 1919 the legislature, apparently bent on economy, combined in the person of one man the offices of legislative reference librarian, state law librarian, and supreme court reporter, and placed the appointment of this individual in the hands of the judges of the Supreme Court.¹⁴ It is, of course, due to the top-heavy accumulation of duties and not to the unique appointing authority that the reference work in that state has subsequently dwindled almost to the vanishing point. The Legislative Counsel Bureau in California was formerly under the control of a board composed of the governor or someone acting for him, two men elected from the Senate for a four-year term, and two from the House for a two-year term, the two pairs to be split politically.¹⁵ In 1917 this scheme was abandoned and the power of appointment was lodged in the hands of the governor.¹⁶

In several instances these surface changes are an indication of deep-seated difficulties which, although not much is said about them, are perhaps to date the most stubborn obstacle to the successful carrying out of legislative reference functions. Some bureaus have been accused of political bias; others have been charged with trying to influence legislation. But almost everywhere the bureau finds it difficult to avoid being embroiled, sometimes openly, in contests between governor and legislature; hence the importance of this matter of control. Despite the tendency of political parties to bridge the gap between legislative and executive, the antiquated theory of checks and balances continues to work only too successfully. Only comparatively rarely does a governor manage to keep on good terms with his legislature, even though both are of the same party; while frequently an open feud exists between them.

¹³ Oregon Laws, 1919, ch. 167, sec. 2.

¹⁴ North Dakota Laws, 1919, ch. 211, sec. 1.

¹⁵ California Laws, 1913, ch. 322, sec. 1.

¹⁶ California Laws, 1917, ch. 727, sec. 1.

If, under such circumstances as these, the legislative reference bureau is controlled by the legislature, it is distrusted by the governor; whereas if it is in the power of the governor, that section of the legislature which is opposed to the governor will be suspicious of the bureau and will refuse to make use of it. Sometimes a bureau is able to show a remarkable record of activity so far as the number of bills drafted is concerned, while the actual effect of its work on the statute law of the state is slight, the reason being that the administration bills are not entrusted to it at all. Where such conditions exist the respective parties to the dispute will find other agencies to draft their bills, such, for instance, as the attorney-general's office, or highly skilled private individuals. It may be objected that bill-drafting is a purely technical function in which personal bias cannot play a part. But the ease and innocence with which a joker can be slipped into an important bill has been demonstrated too often, and sponsors of bills do not care to take chances. Perhaps this difficulty can be obviated in part by placing the work of the bureau under the control of some non-partisan board, but even here the control, indirect and remote though it may be, will rest predominantly with the governor or with the legislature. No remedy for such a state of affairs has thus far been suggested except the provision of separate facilities for bill-drafting. The conditions seem to be inherent in our type of government, and therefore ineradicable as long as the type remains unchanged.

In three or four states legislative reference work has been completely discontinued, but no such calamity has befallen any state which had a thoroughly established and efficiently functioning bureau. In West Virginia for a few years the Department of Archives and History carried on some legislative reference work at the request of the governor, but funds and facilities were so limited that after a short trial the attempt was discontinued. The unsuccessful attempts of Oregon and North Dakota to save money by making legislative reference work an ex officio function of some other state officer or institution have already been touched on. New Jersey in 1914 created the office of legislative adviser and bill examiner, carrying a salary of \$1,500. A man was appointed, and acted during the session of 1915, but in 1916 the legislature failed to make any appropriation for his salary and in the following year the office was abolished. The members of the legislature apparently preferred the former method of consulting the attorney-general's office

¹⁷ Elliott Flower, in *Harper's Weekly*, LX, 417.

on their bills. In any event the appropriation was scarcely large enough to afford a very high-class type of service.

Sometimes, for one cause or another, the bureau has incurred the enmity of either the governor or the legislature, and as a consequence has had to fight for its very existence. When Governor Philipp took office in Wisconsin in 1915 he did so with the avowed intention of getting rid of Dr. McCarthy and the legislative reference bureau. He charged that the bureau had interfered in legislation, had increased the number of bills, had impaired the efficiency of the average legislator, and had caused unwarranted expense to the state, and he therefore had a bill introduced to abolish the institution. The legislature, however, did not agree with the governor, and the bill did not go through. As time went on, Governor Philipp became sufficiently reconciled to the bureau to use its facilities for drafting bills.¹⁷

Trouble developed for the Indiana bureau during the 1917 session. A certain bi-partisan section of the legislature whose political interests had been affected adversely decided to put the bureau out of business. An attempt to curtail its activity by placing it under the State Library with a nominal appropriation failed, but the desired end was achieved by political trickery. A rider abolishing the bureau was attached to an important bill late in the session, and in the rush and confusion attending the closing hours the bill went through.¹⁸ The governor signed it rather than veto an important bill, but he continued the organization of the bureau partly on appropriations which had been made for it earlier in the session, and partly on his own contingent funds. One of the first acts of the new legislature was to reëstablish the bureau.

Sometimes, because of the influential backing that a bureau has attracted, or for other reasons, legislative enmity will not take the form of open opposition, but will rather manifest itself in an attempt to cut appropriations or to take away functions. In 1917 the Texas legislature, largely because of a personal feud with the man then in charge of legislative reference work, withdrew all supplementary appropriations for reference work, and continued the salary only on condition that the incumbent be discharged and a new man employed. The additional appropriation was not again made available until 1921. The reference service of the Library of Congress was likewise subjected to this form of pressure. Its appropriation for 1919-20 was \$45,000, and instead of receiving the total of \$69,000 which it asked for the following year, it

¹⁷ *Special Libraries*, VIII, 72; *Journal of the American Bar Association*, III, 465.

was suddenly cut down to \$25,000.¹⁹ The personnel of the service was reduced forty per cent as a result. The alleged reason was disapproval of some of the work carried on by the section, but there were doubtless other contributing factors. The appropriations began to increase again, but not until 1924 did they reach their former figure.

Probably the most recent attempt of this nature was that of Governor Bryan in connection with the Nebraska bureau in 1924. In a budget message he declared that the department had become virtually a part of the state university, and that its main function was sending out documents and information on request; he therefore recommended the abolition of the bureau and the merging of its work with that of the Library Extension Bureau.²⁰ Consequently no provision for the bureau was made in his budget. The legislature, however, had different ideas on the subject, and proceeded to vote the bureau the largest appropriation in its history.

With the lapse of time and the accumulation of experience, the legislative reference bureau has come to fill a recognized place in state government, with fairly definite and circumscribed functions. Presumably its first period of growth and expansion is over. It has not brought about any revolutionary change in the quality of state government, but it was not to be expected that it would do so. On the other hand, many students of government and legislation agree that in such states as Wisconsin and Indiana, where bureaus have been especially active and efficient, there has been a marked improvement in the quality and arrangement of the statute law.

In general, the tendency has been rather toward a narrowing than an extension of function. Whenever the bureau has gone beyond the strict bounds of its work, and has attempted, however laudably from the standpoint of reformers and students of government, to aid in bringing about certain reforms, trouble has resulted. Too often in such circumstances the bureau has come to be looked upon as the tool of a certain faction in the government, and the ultimate result of its well-intentioned efforts has been a curtailment of its usefulness. Apparently the moral is that the bureau should stick strictly to its knitting, and not allow its personal convictions to play the slightest part in the carrying out of its functions. In other words, its function is purely ministerial,

¹⁹ Report of the Librarian of Congress, 1920, p. 102; also House Document No. 968, 65th Congress, 2nd Session.

²⁰ Charles W. Bryan, Supplementary Budget Message, Nebraska, January 18, 1923, p. 14.

not discretionary. Such an attitude has been carefully fostered and built up over a long period of years in the office of the British Parliamentary Counsel to the Treasury, and it would seem that we are approximating it in the United States.

Of all the elaborate plans for expanding legislative reference service which have been enthusiastically set forth from time to time, practically none has been brought to fruition. Senator Owen's scheme²¹ for building up a very extensive legislative reference service for the national government, to be connected with a graduate school of government and legislation, seems to be farther from fulfillment than when it was first broached. Nor does it seem likely that any state will in the near future attempt the plan suggested by John A. Lapp²²—a variation upon that first set forth by John Stuart Mill in his *Representative Government*—namely, the entire withdrawal of the law-drafting function from the legislature, leaving that body only the alternative of accepting or rejecting bills drawn by a commission of experts. Even the much less drastic proposal of submitting all bills to the legislative reference bureau for technical revision and suggestion has been accepted only in very few American states, notably Connecticut and Vermont.

The inception and early development of the legislative reference bureau belong to the first decade of the twentieth century—a time of progressivism and hopeful experimentation in matters governmental. At present we are going through a period of disillusionment and conservatism, and proposed experiments are viewed with disfavor. Probably in a few years, when the wheel has turned full circle, we will have another era of experimentation, and we may then have an opportunity to test these larger plans. Meanwhile, the legislative reference bureau is carrying out its routine work of library reference and bill-drafting, and there are few who advocate its discontinuance.²³

JOHN H. LEEK.

University of Oklahoma.

²¹ S. 8335, 62nd Congress, 1st Session; see Senate Report No. 1271, pp. 9-10, 62nd Congress, 3rd Session.

²² John A. Lapp, in *Annals of the American Academy*, LXIV, 181.

²³ Since this article was written a change of considerable importance has been reported from Rhode Island. A law passed this year (*Rhode Island Laws*, 1926, ch. 790) provides for the appointment of a state law revision commissioner by the governor and the senate, to hold office for a term of four years. His main functions are to consolidate and arrange in code form the statute laws of the state; to append thereto notes and supreme court decisions bearing on the laws; to prepare, draft,

Progress in Virginia Toward Simplification and Economy in Government. The General Assembly of Virginia, at its session of 1926, established a record for constructive legislation unequalled by that of any of its predecessors in recent decades. This result is attributable in part to the social, industrial, and political awakening that is now manifesting itself in all parts of the state. It is attributable in still larger measure to the able and effective leadership of the recently elected governor, Harry F. Byrd. The outstanding feature of this legislation was the adoption of an imposing array of some twenty-five or thirty measures, designed to prepare the way for complete administrative reorganization and to promote efficiency and economy in state and local government.

The subject was not new in Virginia. There had been a fairly well-defined movement for administrative reform in the state, beginning as early as 1908. This movement resulted in the appointment, from time to time, of a number of commissions or committees to investigate special phases of state and local government, such as taxation, the fee system, education, and budgetary reform; and it culminated in 1922 in the creation of a commission on simplification and economy of state and local government, invested with broad powers and directed to study and report to the 1924 session of the General Assembly a plan for such reorganization and simplification as might be deemed needful "in all the component parts of the government, state and local."

The report of the commission on simplification and economy reviewed, to some extent, the findings of previous commissions and presented a comprehensive program for administrative reorganization based upon a study of state and local conditions. The report appeared too late for full consideration at the legislative session of 1924, but it met with an immediate response on the part of the press and the people of the state. Simplification and economy became an issue in the campaign of 1925,

and redraft bills on the written request of the governor, the speaker of the house of representatives, the presiding officer of the senate, or chairmen of the standing legislative committees. His work is to be clerical only, and he will exercise no influence on the subject matter of legislation. Such work of this nature as has been done heretofore has been the function of the legislative reference division of the State Library, and it is therefore to be expected that the new commissioner and the Library will work in close coöperation. The outsider may well wonder whether any one man will be able successfully to discharge such an array of functions. A fairly liberal salary (\$6,000 per annum) is provided, but the allowance for office assistance and expenses is only \$1,800. The idea was probably taken from the Massachusetts experiment mentioned above.

and both candidates for the governorship committed themselves to programs of administrative reform.

Any doubt that may have existed as to the policy and procedure of the governor-elect was quickly dispelled when he assumed office on February 1, 1926. His first official act was to establish a uniform eight-hour day for all state employees engaged at the seat of government. This was followed, on February 3, by a notable message to the General Assembly on the subject of simplification of government in Virginia.

Pointing out in this message that nearly one hundred boards, departments, and officers were struggling to function in the management of the affairs of Virginia and emphasizing the powerlessness of the chief executive, under present conditions, to exert an appreciable influence in the conduct of state government, the governor contrasted these conditions with the administrative organization required by the great private corporations, and urged specifically: (1) amendment of the state constitution to prepare the way for the short ballot, the elective officers to be limited to the governor, the lieutenant-governor, and the attorney-general; (2) the appointment of all administrative heads by the governor, who should be made responsible for administrative efficiency; (3) the abolishment of many bureaus, boards, and departments, and the grouping of the rest into eight or ten departments; (4) an efficiency survey, to be made by an outside agency, free of personal and political considerations. These recommendations were accompanied by a number of less sweeping proposals designed to strengthen the lines of administrative authority in the conduct of state affairs.

With respect to local government the message, while disclaiming any intention of infringing upon local prerogative, contained a number of far-reaching recommendations. These referred mainly to administrative details and included such subjects as the preparation and publication of local budgets; public hearings as a condition precedent to increases in tax levies; bond issues only upon direct vote of the qualified voters of the locality; restriction of the power to borrow money or to create deficits; a uniform fiscal year, fixed by state law; and regular audits by the state accountant of all local receipts and expenditures.

Naturally the legislative program was set in this constructive framework. Indeed it is said that no specific measure recommended by the governor failed of passage in the General Assembly. Most of the bills were enacted without opposition. Outstanding among these measures was an item in the general appropriation act, carrying a grant of \$25,000 for an expert survey of the state government with a view to consolidation.

and simplification of functions, and for such study of the organization and functions of local government as the governor might direct. Accompanying this was an act providing for the appointment by the governor of a commission of seven members to study the state constitution and to propose to the 1928 session of the General Assembly such amendments and revision as may seem to the best interests of the commonwealth. This sensible plan, apparently no less democratic than procedure through the customary constitutional convention, may have an important bearing upon methods of revising state constitutions in the future.

In addition, appropriate resolutions were passed proposing amendments to the state constitution by which the secretary of the commonwealth, the state treasurer, the superintendent of public instruction, and the commissioner of agriculture and immigration, instead of being elected as heretofore, should be appointed by the governor for terms coincident with that of the governor making the appointment.

Other measures provided for the abolishment of assessors of land, 439 in number, and the imposition of their duties upon the local commissioners of the revenue; for the reorganization of the state tax commission and the appointment of a full-time state tax commissioner; and for the abolishment of several state offices and bureaus and the combination of others with their proper general departments. A "state port authority" was created to coördinate, regulate, and improve the navigable waters of the state; and the functions of several existing conservation agencies were consolidated under a state commission of conservation and development. To this commission is entrusted the development of the water power, geological, and forest resources of the state, as well as the control of a special fund designed for advertising these resources. The commission is authorized also to develop within itself an efficiency department to investigate, upon proper authorization, the efficiency of any department of the government, and, under the direction of the governor, "to investigate and report upon any question having to do with the efficiency of the various industrial and manufacturing enterprises throughout the state."

Aside from these measures, which, with one or two exceptions, were designed to prepare the way for administrative reorganization, the program included a score or more of measures designed to simplify and facilitate administrative procedure, and, by tightening the lines of administrative authority, to promote efficiency and economy. Of these the most far-reaching were acts (amending and strengthening a previous

act of February 15, 1924) providing for uniform statements of receipts and disbursements, both state and local, and making it the duty of the state accountant to prescribe a uniform classification of accounts and to publish annually a statement showing in detail the comparative cost of local government in the counties and cities of the state.

Additional financial safeguards are contained in measures limiting the power of state departments and institutions to create deficits; requiring of all local governing authorities the preparation and publication of annual budgets, with opportunity for public hearings; requiring periodic audits by the state accountant of local receipts and disbursements, and public hearings in advance of proposed increases in the tax levy; limiting the power of local school boards to create deficits or borrow money without authorization by the proper local governing body, granted after public hearing; and prohibiting bond issues for local purposes without authorization by direct vote of the people.

Still other measures included a reduction of the number of commissioners of the revenue to one for each county; reduction of the compensation of fee officers and provision for publicity and control of the expenses of such officers; appointment, instead of election, of members of the state corporation commission; segregation of sources of state and local revenues, including a resolution to establish the principle of segregation as a part of the state constitution; separation of the department of game and inland fisheries and the department of commercial fisheries; and the bestowal of additional powers of local legislation upon county boards of supervisors.

This program must be regarded, of course, as only a beginning, but when it is remembered that it represents the first systematic attempt in many generations to reorganize state and local government in Virginia, its significance becomes apparent. The program is not without defects. Many persons would have preferred the creation of a tax commission with three full-time members, and many doubt the wisdom of the proposal to write the principle of tax segregation into the organic law of the state. There is still some tendency to multiply special boards and commissions whose functions could better be combined with those of agencies already in existence. But these defects are small when compared with the great constructive program completed. A new tax system has been established, the lines of administrative control have been vastly strengthened and improved, the principle of the short ballot and administrative consolidation has been sanctioned, and the first steps

have been taken toward making the governor the business head of the state.

Naturally, the most formidable task is still ahead. The real contest will come when the details of the reorganization plans are submitted to the General Assembly, probably in a special session called for their consideration. The retaining of the New York Bureau of Municipal Research, which is now directing the survey of state and county government, is sufficient guarantee that this work will be comprehensive and thorough, while conforming, so far as reasonably may be, to local environment and conditions.

ROBERT H. TUCKER.

Washington and Lee University.

Controlling Court Procedure by Rules rather than by Statutes. There is a well-nigh unanimous opinion that American procedural law needs reform. Why, then, is it not reformed? It may be answered that genuine reforms are not easily discovered, and that when discovered their concrete formulation, their popularization, and their adoption are not accomplished without much effort. Some well-informed persons, however, are convinced that there is a special impediment to procuring procedural reform, arising from the fact that the enactment of reform lies with the legislatures rather than with the courts.

In support of this view it is urged that many legislators are not lawyers and are unfamiliar with court procedure, its defects and its needs. These men cannot readily understand the bearings or probable effect of a proposed reform. They are timid about changes which they do not comprehend. A center of inertia, and often of opposition, is thus almost predestined. The members of the legislature who are lawyers are more teachable about legal reforms. But they are never drawn from the bench and seldom from that class of lawyers most able to appreciate the need for and probable effects of a proposed reform, namely, attorneys of the widest experience and the highest ability. Most of the lawyers in the legislature are comparatively young men seeking prestige in aid of their practice or older men who have sacrificed their practice considerably to do constructive work along governmental lines. Thus, even the lawyers in the legislature are not those of the profession best fitted to pass on procedural matters. The total result is that much education must be carried on and much inertia overcome before a change in procedure can get a real hearing.

When we add to the natural ineptitude of the legislature for the task their steady preoccupation with other and more pressing matters, we can realize why legal reform fares ill. Again, our legislatures commonly meet but once in two years. This unduly postpones changes in details. For sweeping reforms, two years of consideration would be proper. For subsequent detailed changes or modifications, it is unnecessary. In England changes can be made by the Rules Committee any time after forty days' notice. The atmosphere of politics, personal influence, and trading which prevails in the legislature is not conducive to expeditious or sound legal reform. Finally, the governor's veto has shown itself, at any rate in California, capable of blocking wise and well-considered reforms.

On the other hand, the Rules Committee in England is admirably constituted for securing a sound and flexible procedure. It is composed of eight selected judges and four selected members of the lawyers' societies. The selections, aside from four judges who are designated by the statute as ex officio members, are made by the "chief judicial superintendent" of England, the Lord Chancellor. This group of twelve specialists may change almost anything in English procedure. Before an alteration is made, forty days' notice is given to the profession to enable the committee to have the advantage of criticisms and suggestions. The proposed rule can then be at once reconsidered, perhaps amended, or reframed and passed. Either house of Parliament may annul it; neither has ever exercised the power. Nevertheless democratic control in the possible case of an abuse of power by a Rules Committee is thus provided.

The Rules Committee, then, as contrasted with the legislature, has many advantages. It is wieldy. It has knowledge of the subject matter and intimate experience with procedure in actual use. It may meet at any time. It can act promptly. It is free from politics. It is not busy with a thousand other matters likely to monopolize its time. With a rules committee endowed with power to act, we also might hope for a new era of procedural law. Of course the present rules of procedure, whether the result of decisions, statutes, or prior rules of court, must be capable of modification by the rules committee. A rules committee without power to modify the present statutes or codes governing procedure could do little to relieve the situation.

There are other advantages in the rules committee method. At present we blame the courts and lawyers for faults in court efficiency which are largely the results of legislature-made procedure. The power to reform

should be placed in the hands of those whom we hold responsible for the present bad condition. The procedural statutes bind the courts often against their own sense of justice. There is much waste of judicial time in construing procedural statutes, in attempting to make them accomplish justice, in settling mere procedural questions. This time could be saved and the attention of our courts given to determining controversies on their merits. If a disputed construction of a rule of court presented itself, the rules committee could promptly modify the rule to clarify the matter. Mistakes and omissions in the rules could be speedily corrected. We need not await the chance occurrence of a case involving the rule to get an ambiguity cleared. If a rule proved defective we need not await a biennial legislature to get it remedied.

Having participated in the making of the rules, the judges would understand their purpose. A more sympathetic and intelligent construction might be expected than has been given to the codes of procedure and statutes of the past. It is highly probable that courts would deal rather summarily with technical objections based on the wording but contrary to the spirit of the rules, and therefore that attorneys would cease to make such objections. Such, at all events, has been the experience in England in the field of evidence.

What has been accomplished? The story of the adoption of rule-governed procedure in England has been told in splendid fashion by Samuel Rosenbaum, of Philadelphia, in his "Rule-Making Authority in the English Supreme Court." Of course all courts have constantly exercised the power to make rules of court to supplement the statutes concerning procedure. These rules sometimes settled or modified the previous practice as established by court decisions. Under statutes beginning in 1833 rules of court were adopted which were quite revolutionary in character. But it was not until 1875 that procedure generally was made subject to rules of court.

Even then the Rules Committee was forbidden to alter the rules of evidence in jury trials, to do away with the oral examination of witnesses, or completely to abolish the jury. However, the rules of evidence have ceased to be the fetish in England that they are in the United States; objections to the admissibility of evidence are seldom heard; the appellate courts are rarely asked to deal with them. No one desires to abolish the oral examination of witnesses. Jury trials have been so limited in England that they no longer cause irritation and disgust. The limitations on the powers of the Rules Committee are therefore less serious than they at first appear. This method of settling procedure

has proved remarkably successful in practice. No considerable number of English lawyers would be found in favor of a return to the legislative system.

In Chapter XVI of Mr. Rosenbaum's book one may read of the spread of this system to the other parts of the British Empire. It must suffice here to say that it has been almost universally adopted. The important exceptions are Quebec, governed by a French code of procedure, Prince Edward Island, and New South Wales. In the last two jurisdictions procedure is approximately what it was in England about 1860, being governed mainly by statutes. These jurisdictions are not up with the procession.

The most interesting conclusion to be drawn from this wide adoption of rule-governed procedure is that it may be used successfully in communities of very different character. Its utility is not confined to urban centers or to densely populated and highly developed states like England. It works in agricultural and sparsely inhabited Canada, in India with its millions of uneducated and undeveloped subjects, and in composite South Africa with Roman-Dutch law as the basis of much of its jurisprudence. It has not functioned as fully in all parts of the Empire as in England. However, taken as a whole, the British experience indicates that the governing of procedure by rules of court may operate successfully in any of our American states. The chief conditions needful for effective operation are (1) a small group of judges who are alive to the crying need for procedural reform and who will study the English system and seriously attempt to apply it to their local needs, (2) a sympathetic attitude on the part of the other judges of the state, so that the system may not be largely destroyed by construction as was code procedure, (3) a bar willing generally to give the new system a fair trial.

Despite strenuous efforts on the part of the American Bar Association and of many state associations, and despite the almost unanimous approval by our most eminent lawyers, comparatively little has been accomplished toward the reform in this country, as will be apparent from a hasty survey.²³

In Alabama the Supreme Court was given, in 1915, full power over procedure, including the rules of evidence. There is no clear statement that this power extends to the modification of statutory provisions;

²³ The following references will guide one who wishes to investigate for himself: *Journal of the American Judicature Society, passim*; 12 *Mich. L. R.*, 362; 2 *Minn. L. R.*, 81; 13 *Mo. Law Bul.*, 3. Rules of court may be found conveniently in the front of the volumes of the West Publishing Co. reporter system.

but such seems the fair implication. The failure of procedure in Alabama, if any, may therefore fairly be laid at the door of the Supreme Court. In the ten years that have elapsed since the statute was passed the court has done nothing of importance to make procedure better.

In Colorado, in 1913, the Supreme Court was given full power, with the right to modify statutory procedure. It is true that some changes were made in 1914. They were, however, fragmentary. There was no attempt to overhaul procedure and make it businesslike. There was criticism of some of the new provisions, and, indeed, an attempt, though vain, to repeal the law giving the court power. Slightly modified rules were passed in 1917. In twelve years substantially nothing has been done.

Delaware's highest court has had the power to govern procedure by rules in actions at law since 1852, and the grant was reaffirmed in 1925. The court may even alter statutory procedure. So far, however, the court has left its power substantially unexercised.

Since 1851, the Michigan Supreme Court has had broad powers over procedure. A judicature act of 1915 reaffirmed these. Something was done by the Supreme Court in promulgating the circuit court rules of 1916. Even these, however, took no radical steps. Assumpsit and trespass on the case survived. Some progressive changes in pleading were adopted. It cannot be said that the Michigan Supreme Court is living up to its opportunities. The legislature often passes acts concerning procedure, and the Supreme Court does little.

It has been said that the New Hampshire Supreme Court exercises a power to govern procedure by rules. This seems an over-statement. It does not appear that it has ever attempted to modify a statute or to provide for the procedure in the lower courts. Rule-making power, thus limited, is conceded everywhere.

New Jersey is our brightest spot. The Practice Act of 1912 gave the Supreme Court full power in common law cases; the Chancery Act of 1915 gave the chancellor full power in cases in equity. Rules to be effective until changed were added to each act by the legislature. Hence in both branches of the law New Jersey is working under rules rather than statutes. The chancellor adopted new chancery rules in 1917; his power has been exercised and in a progressive spirit. The Supreme Court has made no important changes in the rules that accompanied the act giving it power in cases at law. Are our Supreme Courts too busy or too uninterested to function in this matter?

In 1919 the Supreme Court of North Dakota was authorized to pass rules prescribing uniform procedure in the lower courts. But to date no such rules have appeared.

The power given the Vermont courts in 1915 is apparently restricted and has not been much used.

Since 1916 the Supreme Court of Virginia apparently has had power to pass rules for all courts and to alter statutory procedure. It has done nothing. It has been suggested that this may be due to lack of an appropriation for assistance in the task. It has also been said that the court is waiting until the Supreme Court of the United States obtains power and formulates rules, in the hope that such rules would be generally adopted and so become uniform.

The Supreme Court of Washington, in 1926, was given full powers. No revision of procedure by the court has so far appeared.

The Supreme Court of the United States has long had power to control equity procedure by rules of court, and has done so. The equity rules of 1913 are a serious and apparently successful attempt by an American court to make genuine reforms in procedure by rules. The Supreme Court also controls procedure in admiralty, bankruptcy, and copyright matters by rules. For ten years there has been before Congress a bill to give the Supreme Court power in common law cases. So far it has failed of passage. Persons fearful of the power of the courts—surely the least powerful branch of our government, having neither the purse nor the army—and the same persons or others, feeling that the principle of democracy demands that the people through their legislatures should control procedure, have obstructed it. Democracy, however, is best served when the people act through their most efficient agents for the work in hand.

A priori the Supreme Courts should function better than the legislatures. The legislatures have done badly. The Supreme Courts, however, have thus far done next to nothing. Probably a rules committee or a judicial council serving as such, would be more active and more efficient than a Supreme Court. It is perhaps early to dogmatize about the matter. Some Supreme Court may yet surprise us by its vigorous, thorough, and enlightened revision of its local procedure.

CLARKE B. WHITTIER.

Stanford University Law School.

NOTES ON INTERNATIONAL AFFAIRS

EDITED BY BRUCE WILLIAMS

University of Virginia

The Origin of the System of Mandates under the League of Nations: Further Notes. In an article entitled "Origin of the System of Mandates under the League of Nations," published in the Review in November, 1922, the present writer ascribed the devising of the mandate system in the form in which it now exists and is operated by or under the League of Nations to President Theodore Roosevelt and Secretary of State Elihu Root, in connection with discussions carried on by them with German and French representatives in Washington at the time of the Conference of Algeciras (1906). To the treatment of the subject there given it is now possible to add certain notes not wholly without interest and importance in the settlement of what appears to the writer to be an important problem of international constitutional history.

The conclusions reached by the writer in the article cited have been sharply challenged by Mr. Luther H. Evans, writing on "Some Legal and Historical Antecedents of the Mandatory System" in *Proceedings of the Fifth Annual Convention of the Southwestern Political Science Association*, March, 1924, and by Mr. Walter R. Batsell, director of the Reference Service on International Affairs of the American Library in Paris, in writing on "The United States and the System of Mandates" in the *Revue de Droit International* for July-September, 1924.

The challenge put forward by the latter writer appears to rest on the propositions that the use of the term "mandate" by Roosevelt and Root in 1906 "is by no means the first use of the word 'mandate' in its present connotation, that it is used by practically every writer to describe the status of Bosnia and Herzegovina between 1878 and 1908, that it is used repeatedly in the correspondence concerning Egypt after 1880, and that even more clearly than in the Roosevelt correspondence it was used in the negotiations between representatives of Great Britain, Germany, and the United States at Washington, June 25 to July 26, 1887, to discuss the disposition of Samoa."

Evans, on the other hand, reviews what he considers to be various antecedents—more or less direct—of the mandate system. "Thus the

United States had the 'moral mandate' of the world to intervene in Panama and build the canal," citing and quoting Stowell, *Intervention* (1921); "France acted on a 'moral mandate' from the rest of the world when she intervened in Syria in 1860," again citing Stowell. Evans admits the absence of any "commission of authority from anyone" in these cases and, indeed, appears to mention them only to exclude them as prototypes of the present system. A second type of cases is found in those instances where relationships have been established by treaty and then are later described as cases of mandate. "The control which Austria-Hungary assumed over Bosnia-Herzegovina by the treaty of Berlin has been designated as pursuant to a mandate from the remainder of Europe"; but this Evans denies, citing Baty, "Protectorates and Mandates," in *British Year Book of International Law, 1921-1922*, 115, therein apparently differing from his collaborator Batsell; similarly he denies that the treatment applied by the powers to the Congo Free State is a case in point. He cites, instead, as being more in point, the proposal for the establishment of mandate arrangements over Samoa, never adopted, and also the arrangement actually set up in Crete in 1898 whereby Prince George of Greece was installed in the island as "high commissioner . . . with a temporary mandate of three years for the pacification of the island and the establishment of a regular administration," in spite of its peculiar character, it being vested in an individual rather than in a nation, and without international supervision. Evans then cites the Moroccan case; but, while he admits that it is "strikingly similar" to the general theory of "the mandatory system as now conceived," he places it merely on a par with other examples or prototypes mentioned, not because it was "unrealized (sic) like the first [the Samoan proposal]," but because he believes that "the nearest approximation to the mandatory system is . . . to be found . . . in the practice of the British Empire in delegating the powers of administration to one of its constituent members (sic) for the governing of a backward area over which the Empire had assumed a trust." Examples are cited in the grant of authority in 1887 to Queensland to govern New Guinea, "over which a protectorate had been assumed," in the grant of power in 1905 to Australia to govern Papua, and ("an even more significant example") in provisions of the South Africa Act of 1909 regarding government by the Union of the territories of Basutoland, Swaziland, and Bechuanaland. Apparently the Empire is to be regarded as the League, the Dominion as the mandatory, the protectorate as the mandate. The Empire has assumed a trust, recognized a duty of tutelage,

delegated authority of administration, and prescribed conditions; the grant "to a subordinate nation (sic)," it is said, "could be revoked."

In evaluating these exhibits and interpretations and objections one can do nothing but review them in detail. We may best take them up in an order roughly the reverse of that in which they have been stated.

It appears to the writer that the case last mentioned is very far from the point, both in theoretical form and in historical fact. The British Empire is not a league of nations, no matter what efforts of imagination or of propaganda may be made to picture it in such a light; the other "constituent parts" of the Empire had nothing whatever to say about the delegation of power to Queensland or South Africa in the cases mentioned, nor about the manner in which the "mandate" was later exercised. As Mr. G. L. Beer, the soundness of whose claim to speak on this subject will appear later, has said, this arrangement was "not international but domestic or intra-imperial."¹ Finally, there is no shred of evidence that these cases played any part in leading to the establishment of the mandate system at the Peace Conference in 1919.

The Cretan case we should set aside entirely in view of the characteristics already mentioned. These deprive the incident of any standing as a prototype of the present system. Again there is no evidence that this case was in mind at Paris in 1919. In the Samoan case likewise, the "mandate" was to be vested in an individual, and no provisions were made for regulated supervision, reports, or control of the exercise of it. Further than this, the arrangement was never set up in actual operation; nor is there any evidence that it was influential in leading to the action taken in 1919.

With Evans' elimination of the Congo and Bosnian cases there must be general agreement. The Congo arrangement, in particular, was wide of the mark, as others have shown, because the mandate was to be vested in an individual and because no organized supervision was provided.² With Evans' elimination of so-called "moral mandates" from the field as actual precedents we should also readily and emphatically agree.

Batsell's emphasis upon the use of the term in previous cases seems unsound. The term was, indeed, in use for centuries prior to 1919, but never to designate exactly the arrangement worked out for Morocco or that set up under the League in 1919. The place properly to be ascribed

¹ H. W. V. Temperley, *The Peace Conference of Paris*, II, 236.

² Beer, in Temperley, II, 236; Sir Frederic Lugard, "Mandate System," in *Journal of the Royal Society of Arts*, Vol. LXXII, No. 3738 (June 27, 1924), 537.

to the Samoan proposal, where the term was indeed used, has already been indicated. As for assimilating Egypt under Britain after 1880 with the mandate system, such a feat of the imagination requires a juggling of facts and principles which seems unwarranted. That imperialistic propaganda should make the attempt—no less than to paint the Empire as a League of Nations—is not surprising; but it appears none the less futile.

Finally, the position of Austria in Bosnia has been characterized by "practically every writer" as a "mandate" position only since the establishment of the League system in 1919, and the position certainly was not so regarded, except in the loosest generic sense, before that time. There was no definition of the duties of the "mandatory"—as there had not been, indeed, in the Samoan, Congo, or Cretan cases—much less any supervision of the execution of the mandate, which is the most important test of all.

The facts of the matter are that not until 1906 was the mandate scheme worked out so as to assume its present form; that in the Moroccan case it came to possess all its essential elements, i.e., international bestowal of a mandate of administration over colonial territory upon a nation not holding sovereignty of that territory, definition of the mandate, and, most important of all, supervision of execution of the mandate; that it was (contrary to Evans, and contrary to Lugard also, for that matter) actually put into operation in Morocco—with Swiss rather than Italian inspection on behalf of the powers; and that the plan of 1906 actually was influential in the deliberations of 1919, as has already been shown.

In other quarters attention has been called to the fact that Mr. Walter Lippmann, in his volume entitled "The Stakes of Diplomacy," published in 1915, dwells at length on the Algeciras scheme as a landmark in the development of world organization. It is suggested that the Algeciras idea reached the Covenant via Lippmann and the (American) House Commission.

Similar suggestions have come from other quarters. Thus it has been alleged that Mr. George Louis Beer, who was offered, shortly before his death, as it is said, the headship of the mandate commission under the League, was the real originator of the plan for the mandate system and first used the term himself—the earliest use of the term in its present technical signification—in a memorandum completed early in 1918 and submitted to the House Commission.³ It is even said that the whole

³ Beer, *African Questions at the Peace Conference* (1923), ed. by L. H. Gray, xix.

idea, as well as the term, originated with Mr. Beer and that the Covenant adopted most of his ideas. It is admitted, apparently, that this adoption may have come about "independently" (Beer, ed. by Gray, as cited, xix), but it is asserted that "the mandates follow in all essentials the lines which he had foreseen to be best."

It is, of course, impossible to claim for Mr. Beer any originality in employing the term mandate, even in its present technical signification, as the present writer's original article, published in 1922, should have made clear to Mr. Gray before his work was published. What is more important, there is no evidence that Mr. Beer's memorandum, or any other material in the hands of the House Commission—and this applies to any suggestions which Mr. Lippmann may have made to that body—exercised any influence upon President Wilson prior to his adoption of the Smuts proposals. Indeed, Mr. R. S. Baker tells us that up to the time of his arrival in Europe Mr. Wilson had not considered the incorporation of the mandate idea in his plan,⁴ and that—as we well know—the plan was taken by him directly from General Smuts' "Practical Suggestions."⁵ It is, however, interesting to note that Mr. Beer himself cited the Algeciras plan as precedent for the scheme which he was advocating.⁶

Finally, Baker tells us⁷ that Smuts took his plans from other thinkers more radical than himself, including the Inter-Allied Labor and Socialist program of February, 1918; and W. G. S. Ormsby-Gore, formerly British member of the mandates commission, names Philip Kerr as General Smuts' coadjutor in this matter.⁸ This confirms the description given by the writer, in his earlier treatment of the subject, of the manner in which the Algeciras arrangement of 1906—the invention of Root and Roosevelt, and favorite model for international colonial administrative reorganization among English Liberal and Socialist thinkers in the period 1915-1918—made its way into General Smuts' "Practical Suggestions," and thence via President Wilson into Article XXII of the Covenant.

PITMAN B. POTTER.

University of Wisconsin.

⁴ *Woodrow Wilson and World Settlement* (1922), I, 265.

⁵ *Ibid.*, I, 220-265, 424, and especially III, Document 10.

⁶ *African Questions at the Peace Conference* (ed. by Gray), 425.

⁷ *Woodrow Wilson and World Settlement*, I, 227.

⁸ "The Mandatory System," in Temperley, VI, 500-501.

The League of Nations: A Corporation, not a Superstate. When, following the treaty of Versailles, the League of Nations came into existence there was much confusion of thought in the attempt to fit into already existing mental concepts this new thing that had been born from the war travail of the world. This was especially true in the United States, because of the suddenness with which a people accustomed to think in terms of the western hemisphere was plunged into the maelstrom of world affairs, and also because of the fact that the League almost immediately became a subject of political controversy, first between the president and the Senate, and later between the rival parties in the campaign of 1920. Once this situation had arisen, if one party asserted that the League Covenant, exactly as written, must be accepted as the thing for which the United States had been half consciously fighting the war and as the means of making the world safe for the future, it was almost inevitable that the other party should either attack it as creating a dangerous and powerful superstate, or else ridicule it as creating an anomalous thing, so futile that without the United States it would amount to nothing. In fact the other party did both.

In such a political tumult clear thinking was almost impossible and a fair definition would not have been listened to. It is my purpose now to show that the League of Nations of today is neither an anomaly nor a so-called superstate, but simply a corporation—that very convenient invention for getting joint business accomplished with which we are all familiar.

Why then is it not a superstate, or rather, how would a superstate be described, and would such a description fit the League of Nations? First as to the term "super." It would seem to imply power, superior authority, some such relationship as exists between an empire and the principalities that it rules over or between a federal government like the United States and the individual states which have delegated part of their authority to it. The League has no such power or authority over its members. It can issue no commands; it can make no rules or regulations binding on any member without that member's express consent.⁹ The argument once advanced that a nation might have a

⁹ "Except where otherwise expressly provided in this covenant . . . decisions at any meeting of the Assembly or of the Council shall require the agreement of all the members of the League represented at the meeting" (Art. 5, Par. a). Note: The exceptions are on matters concerning the running of the League itself, such as elections, and procedure, and to *recommendations* which may be made by the Council in certain cases.

moral obligation, stronger than any legal obligation, to consent to what it disliked is absurd. Practical politicians do not create a veto power and expect it to lie idle when needed.

It is true that amendments to the Covenant may be made by a three-fourths majority of the Assembly and ratified by a majority of the member states.¹⁰ But any member displeased with such amendment, may withdraw from the League, and may withdraw in any case on due notice. That a federal republic or an empire would not so lightly allow its member states to secede the history of many a civil war amply proves.

If, then, the League is not a superstate, is it a state at all? The recognized authorities are pretty well agreed on what a state is. Let us consider what a few of them say and see how far their definitions can be considered to describe the League of Nations.

First, Snow: "A state must be an organization of people for political ends; it must permanently occupy a fixed territory; it must possess an organized government capable of making and enforcing law within the community; and finally, to be a sovereign state, it must not be subject to any external control."¹¹ Next, Salmond: "The exclusive possession of a defined territory is a characteristic function of all civilized and normal states."¹² Finally, Oppenheim: "A state . . . is in existence when a people is settled in a country under its own sovereign government. The conditions which must obtain for the existence of a state are therefore four: "There must be first a people, an aggregate of individuals . . . who live together as a community. . . . There must, secondly, be a country in which the people has settled down. . . . There must, thirdly, be a government. . . . There must, fourthly and lastly, be a sovereign government. Sovereignty is supreme authority, an authority which is independent of any other earthly authority. Sovereignty, in the strict and narrowest sense of the term, implies, therefore, independence all around, within and without the borders of the country."¹³

To cite further authorities would be superfluous, so obvious is it that the League of Nations lacks most of the important characteristics of a state. It is not a "people," an aggregate of individuals living together as a community; it has not a foot of territory of its own, unless the old

¹⁰ The procedure is slightly more complicated, but the description given is substantially correct. See Art. 26 of the covenant as amended.

¹¹ *International Law*, 19.

¹² *Jurisprudence*.

¹³ *International Law* (3rd ed.).

hotel in Geneva now used as an office building by its secretariat may be so described; and though it may make recommendations to its members, it has not the authority to enforce them, and hence is not sovereign.

A striking example of this lack of sovereignty is the well-known fact that some of the weaker nations in the League¹⁴ have not paid their contributions towards its maintenance for several years, if ever. Quarterly statements are sent from Geneva to these delinquent members, but they are as blithely disregarded as so many charitable appeals. The League has no power by which it can collect these debts, and no resort apparently except that open to a private club in the same circumstances, i.e., expulsion from membership. And yet no legal principle is more clearly established than that the power to lay and collect taxes is an essential attribute of sovereignty.¹⁵

If the League of Nations is not a state, what reasons are there for classing it as a corporation? Simply that it has all of the essential characteristics of a corporation, that it functions in the same manner as a corporation, and that its internal structure or organism is that of a typical corporation.

The characteristics of a corporation are the following¹⁶:

First, it is an artificial being created by law; that is to say, usually by a charter from the sovereign power or state. The League of Nations is certainly an artificial being, or in other words an entity separate and distinct from, and something more than, the sum total of its members. It was created by a special charter, the Covenant of the League, in which all the signatory states combined their sovereign "corporation making powers" to give it existence. Herein, it is true, the League differs from the usual domestic corporation, which may be created by any one state acting alone. But this does not mean that it is any the less a corporation; it means only that it is probably the first truly international corporation made by the joint action of many sovereign powers instead of by the single action of one.¹⁷

Second, a corporation exists "as a body politic" under its own special name. Obviously the League fits into this description.

¹⁴ China, Liberia, etc. Argentina has paid nothing since 1920, but its present government is reported to be strongly "pro-League."

¹⁵ State Freight Tax Case, 15 Wall (U. S.) 232.

¹⁶ For a legal definition of a corporation consult *Fietsam v. Hay*, 122 Ill. 293; *Dartmouth College Case*, 4 Wheat 666; or any good legal text-book or dictionary.

¹⁷ By both the civil and the common law the sovereign authority only can create a corporation.

Third, it has the capacity of perpetual succession. This, in legal phraseology, means that although the original or later members may change or pass away, the corporation does not therefore come to an end, i.e., that a succession of new members may entirely or in part supplant the original members without destroying the entity or existence of the corporation. Similarly, it is possible under the Covenant for new nations to join the League's membership¹⁸ at any time (in fact several have done so since its formation) and for former members to withdraw¹⁹ without affecting its continued existence.

Fourth, a corporation has the capacity of acting within the scope of its charter as a natural person. Like a natural person it can buy, sell, and own property, make contracts, and borrow money, provided these acts are incidental to the purpose for which it was created, and can also do the things set forth in the charter as within its powers, but it can go no further without acting *ultra vires*.

Here we come to the second proposition—that the League of Nations functions as a corporation. We have already seen that it cannot levy and collect taxes, neither does it have the power, inherent in all states, of coining money or emitting currency to meet its needs. When it has been short of funds it has borrowed from the Swiss banks, giving its note, signed by the Secretary-General and accompanied by a certified copy of the Council's resolution authorizing the borrowing, exactly as any corporation would be required to do.²⁰ When it needed supplies it could not requisition them; when it wanted land on which to house the offices of the Secretariat it had not the power of eminent domain, the power of a state to take what it needed and pay afterwards at its own price. Like any other private corporation, the League can only buy what is offered for sale, and at the seller's price.

Naturally, the League can do certain things that no other corporation has ever been granted the power to do—that perhaps no other corporation, created by a single state, could have been given the power to do: things in the international field, such as the calling of conferences, the supervision of mandated territories, the creation of international commissions, or the government of the Saar Valley. It was for such purposes that it was created, and all these actions are envisaged in its charter. Its actual power is not one-tenth that once wielded by such corporations as the Hudson Bay Company or the British East India Company,

¹⁸ Art. 1, Par. b.

¹⁹ Art. 1, Par. c.

²⁰ Statement of the Financial Director of the League.

although its influence as a moulder of world opinion is undoubtedly intended to be enormous.

One more point. The League has the internal structure, the organism, common to most corporations. Let us examine only two, but these the most usual and familiar types, i.e., the incorporated city and the ordinary trading or business company, one a public the other a private corporation.

In the first type the members or citizens meet at long intervals, perhaps of two years, to elect a city council to run the affairs of the city until the next election. The council meets frequently to advise and direct, but the actual administration and business of the city government is carried on by a permanent staff of salaried officials headed by the mayor. Sometimes the mayor and the more important officials are also elected, sometimes appointed by the council.

In the business corporation likewise the members or stockholders meet, usually annually, to elect a board of directors. These directors become responsible for the management of the company, but meet only occasionally, the actual day to day business being administered by the president and other permanent officials chosen by the board of directors.

The League presents the same familiar corporate structure. The member-states meet annually in the Assembly to hear reports and to vote on important matters, including the election of six members to the Council.²¹ The responsibility for and direction of the League's affairs between meetings of the Assembly is vested in the Council, which convenes at frequent intervals; but the routine work is carried on by a permanent staff composed of the Secretary-General, who is appointed by the Council, and the officials under his direction composing the Secretariat.

In all three cases the structure is the same, the lines of authority run in the same courses, and the functions of the various parts correspond. Mayor, corporation president, and Secretary-General; city council, board of directors, and Council of League; voting electorate, stockholders, and member-states represented at the Assembly—under different names, all present the same phenomena.

It may be argued that the League may resemble a corporation, but cannot be one because it is *sui generis*, no other exactly like it has ever

²¹ Five powers, i.e., France, Italy, Germany, Japan, and the British Empire, have permanent seats in the Council. This is analogous to the condition in some private corporations where certain stockholders have rights not enjoyed by the others, i.e., holders of *preferred* stock.

existed, it is a new thing in the world. But there was a time when the corporation itself was a new thing and only two or three different kinds of corporation were known.²² With the development of modern conditions, moreover, the corporate idea has been amplified and applied for more and more purposes, until now it appears in many differing forms. Holland, in his book on jurisprudence, mentions eight distinct types.²³ Because the corporate idea has been extended to a new field to meet a new need—because the League was not created by a single sovereign power, but by many powers acting together—it does not follow that the League is any the less a true corporation; it means only that a new classification must be made for it.

The concept of a public corporation has long been known to the law—that is, a corporation chartered by a state to serve purely political or public purposes. Here we have such a corporation. Its charter, however, the famous Covenant, is an international act, or convention, ratified by several powers, instead of the legislative act of a single power; and accordingly the League of Nations which it establishes should be classified as an international public corporation.

DAYTON VOORHEES.

Princeton University.

Institute of Politics. The sixth session of the Institute of Politics at Williamstown in July-August broadly resembled its predecessors. It brought together as diverse a group as ever, and one which was more than usually dominated by experts within their respective fields. The membership was composed upon the plan, adopted in 1923, of providing each conference with a substantial group of experts, and, in addition, another group whose training made them capable of following the discussions without becoming active participants, and whose professional work afforded an opportunity for the dissemination of the points of view developed in the discussions. One significant modification in the structure of the program consisted in having two of the general conferences, open to associate members, upon the same general subjects as two of the round tables, open only to full members. This device made it possible to summarize in somewhat more popular form the technical discussions upon Mineral Resources in their Political Relations and Chemistry in World Affairs.

²² The religious foundations and the chartered municipal corporations of the Middle Ages.

²³ Holland, *Jurisprudence* (12th ed.), 340.

As in past years, the program dealt with subjects of current importance. Plans for the economic and disarmament conferences in Europe were reflected in round tables upon The Limitation of Armaments and New Aspects of the World Economic Situation. The international conferences on questions of extraterritoriality and the tariff in China, together with the anti-foreign movements, brought China conspicuously into the program, and the whole situation in the Far East was surveyed in a general conference. The breakdown of the Tacna-Arica negotiations and the development of a critical situation in Mexico made Inter-American Problems in the Foreign Policy of the United States an appropriate topic for discussion. The round table on Mineral Resources in their Political Relations, begun in the 1925 session, was continued, and this year Chemistry in World Affairs was given especial attention, having not only a round table and a general conference, but a lecture course. Public Opinion, which had only once before appeared upon the program of the Institute, was again discussed in a general conference.

The number of lectures was fewer than in past years. The opening address of Sir Frederick Whyte on the revolt of Asia, and his succeeding discussions of the Indian situation, set an unusually high standard. Sir James Irvine discussed chemistry in world progress in a series of six lectures with lucidity and humor, as well as authority. M. Nichclas Politis lectured upon disarmament and security from the point of view of an actual participant in the diplomatic discussions, who was in a position fully to appreciate the enormous complexity of the subject. Dr. A. Mendelsohn-Bartholdy analyzed the European situation in a series of lectures which reflected not only his practical experience but also his philosophical grasp of the problem. The restoration of Austria, under the direction of the League of Nations, was the topic of the chief actor in that fascinating episode, Dr. Alfred E. Zimmerman.

One of the interesting features of the Institute was the divergence of view between the experts in the round table and the general conference on mineral resources, and those whose principal interest was in chemistry. The round table and the general conference upon mineral resources were in charge of Dr. C. K. Leith, Dr. H. Foster Bain, and Mr. Charles H. MacDowell. They brought many specialists to the sessions to discuss special topics. There was a tendency on the part of the geologists, mineralogists, and mining engineers to view with alarm the tremendous waste of natural resources. The mining engineers argued that when present stocks of important materials are exhausted,

our civilization will be profoundly dislocated. The experts in chemistry, on the other hand, were pervaded with a striking optimism. Admitting possible temporary inconvenience, they looked forward with assurance to replacing exhausted materials with others equally suited to human needs. In much the same way, the mineralogists laid especial emphasis upon the fact that the natural distribution of resources is distinctly unequal, so that a condition approaching monopoly exists in many essential resources. The chemists, on the other hand, felt that synthetic products would, in many cases, break up national monopolies, and restore a really competitive situation. Both the round table and the general conferences on chemistry were directed by Mr. Harrison E. Howe, who mobilized a formidable group of experts upon various phases of chemistry bearing upon the problem of political relations.

The round table on The New Aspects of the World Economic Situation, led by Dr. Moritz J. Bonn, was not devoted to a statistical review of economic facts, nor to the pros and cons of the cancellation of the Allied debts. The approach was from a more philosophical point of view. Discussions centered upon new economic conceptions which have grown out of the World War, particularly the economic philosophy of bolshevism upon the one hand and of fascism upon the other; the one founded upon the conception that the facts of life dominate the will, the other arising from the belief that will power can be made to determine destiny. The rise of private competitors of the state in the field of economic power furnished another topic of significant interest. The manner in which the power of ultimate decision has tended to pass from governments to economic groups has been one of the striking phenomena of the war's aftermath. Thus at critical times in the last few years the normal balance of power in sensitive areas has been upset so completely that the substance of control was in private hands rather than in those of public officials. The manner in which governments have effectively lost their financial independence and gone into receiverships furnishes a strange and disturbing application to important states of devices hitherto reserved for backward countries and governments whose tax administrations were lax or corrupt. The break-up of Europe into fractions, and the realignment of frontiers upon economic bases other than those which had developed before the war, raised problems which were actively discussed. The debtor's revolt against overburdensome obligations, which has furnished some of the striking passages in American history, has been again exemplified in recent European experience. Nations have palmed off manufactured currency upon their creditors as though it were

real money. This effective confiscation by that agency which has stood as the bulwark of property causes people to lose faith in their governments. Between socialistic confiscation of private property and confiscation through inflation on the part of capitalistic countries there is little material difference. Thus the consequences of inflation, which seemed an easy way of getting rid of inconvenient debts, have proved disastrous socially, politically, and economically.

International Problems Arising from the Diversity of Legal Systems was a new subject at the Institute, and was discussed in a round table led by Mr. Arthur K. Kuhn. Starting from a survey of the divergent laws of nationality, and the complications which have arisen out of the divergence, the round table considered in succession international problems arising from the diversity of national constitutions, the divergence of laws for the protection of individual and minority rights, and various systems of exercising criminal jurisdiction over aliens. The discussions revealed the growing importance of this field as the number of contacts among nations have multiplied. The problem of adjustment is now more acute than ever before. The conclusion was that uniformity of law could not be hoped for, that diversity of national legal systems is of the very essence of international life, and that the only solution is in a process of coördinating the several national legal structures. Coördination may be achieved through an understanding and appreciation of the character, nature, and extent of the diversities, and through a process of give and take among the states concerned. It was emphasized that where the diversity of legal principles is too great, the possibility of international relations is destroyed. It was as a bridge between nations with fundamental diversities in their legal outlook that the system of extraterritoriality was developed. As that device disappears it is essential that legal systems be brought more and more into harmony.

The round table on The Chinese Republic and the Powers, led by Mr. Henry K. Norton, was overwhelmed with material for discussion. The maelstrom of events in China, with its turbulent surface of civil wars and boycotts, and its tremendous undercurrent of change in the social and economic structure of Chinese life, furnished abundant discussion. The anomaly of the Chinese situation was emphasized. Though there is, and has been, no government capable of exercising authority over any significant part of China, the successive masters of Peking have been recognized by the powers and have been treated as though they were established governments. Ephemeral governments, founded upon paper constitutions, with unenacted codes of law and courts often

corrupt, overwhelmed in debt, represent an interesting effort to establish republican institutions where there is no citizenry trained for that type of state. The round table considered, in succession, the interests of Great Britain, Japan, Russia, and the United States. British interests, so long dominant in China, have been injured by the recent clashes with the Chinese. The reorientation of Japanese policy since the Washington Conference was described and particular attention paid to the present situation in South Manchuria, and to the growth of Japanese trade and commerce. The revival of American trade with the Far East, together with the growth of American influence and activity, were noted. Emphasis was laid upon the return, at the Washington Conference and since, to the old fundamental policy of a strong united China, in place of merely insisting upon the open door. The aggressive character of the contact of Bolshevik Russia was discussed, as were the effects of the recent Sino-Russian treaty upon the current situation. After an analysis of the changes taking place within the domestic life of China, it appeared to be the consensus of opinion that it is manifestly impossible to grant all the demands of the Chinese. To do so would simply increase the chaos by putting responsibilities upon those who are in no condition to assume them. On the other hand, the policy of force is equally futile. Pressure cannot be brought to bear upon the whole people, and there is no government which can be influenced in that manner. The statesmanlike policy is to refrain from aggression and maintain relations upon as good a basis as possible, giving China time and opportunity to work out a stable political structure.

The round table on The Limitation of Armaments, conducted by Dr. Jesse S. Reeves, founded its discussion upon the premise that armaments can be reduced only in proportion as fear is banished, that there can be no disarmament upon a great scale until there is a mood of moral disarmament, and that the attempt to achieve a diplomatic formula relating to disarmament, while states are still dominated by fear of national disaster, is futile. Disarmament and the sense of security are indissolubly linked. The problems of disarmament, as they affect land forces and naval forces, are dissimilar. The question of the reduction of land forces is infinitely the more complicated. A nation's naval policy is developed out of relatively few factors, which may be ascertained, though not without difficulty. In land warfare the problem is one of the effective mobilization of entire populations. There are so many factors lurking in the formula for the equation of land armaments that the more it is studied the more the problem becomes complicated.

After discussing the difficulties arising from differences in population, strategic frontiers, and other physical factors, the conference approached the question of the definition of disarmament, which proved so difficult for the Preparatory Commission for the Limitation of Armaments at Geneva. The attempt of the American group to harmonize the conflict between those who would interpret armaments in the material sense, and those, on the other hand, who would include all potentialities, was described. And there was discussion of the reasons why the American suggestion to consider as armaments the effective peace-time strength of a country, and such peace-time stocks of materials as may be made available immediately upon the outbreak of war or very soon thereafter, made very little headway.

The discussion of Inter-American Problems in the Foreign Policy of the United States, under the direction of Dr. Leo S. Rowe, was predicated upon the assumption that the two continents must be regarded in the same light as Europe, namely, as composed of states with diverse interests and aims, whose contact must always be the subject of careful calculation if it is not to develop friction. The naive assumption that mere geographic propinquity will make cordial its relationship with the countries of South America must be abandoned by the United States. The era of good feeling, which arose in the early period of independence, speedily gave way to an era of distrust, which was dispelled only in the twentieth century. The new period of satisfactory relations was short-lived because of events associated with American policy during the war. At the close of the war, therefore, Latin America turned with satisfaction to the League of Nations, which recognized its world position and which the United States abstained from joining. This affiliation was the more natural because the cultural relations of most of the Latin American countries are with Europe, and there is, therefore, a natural tendency for the nations of Latin America to be drawn into the European system. The feeling that the United States is an overwhelmingly large and powerful state led many South American leaders to feel that the League offered a remarkable opportunity for a counter-balance against the United States. The new lines of economic relationship between the United States and the South American countries give them more reason for such an affiliation, because they wish to avoid the political dependence upon the United States which might flow from economic dependence. The League has been careful to give ample recognition to Latin America and at the same time has not intervened in Latin American disputes in a way to involve the United States. There is no

occasion to expect difficulty from the relationship of Latin America with the League if the situation is wisely managed, but neglect might well result in a situation wherein the United States would appear to represent one unit of power and the League of Nations an entirely different one. The repercussions upon American policy would inevitably be unfortunate. The consensus of opinion seemed to be that the United States should make a constant effort toward better understanding of Latin America—an understanding founded upon an appreciation of the culture and institutions which have developed among our neighbors. It is altogether likely that the conviction that self-government can be taught must be abandoned, for it involves an attitude of mind certain to be resented, and suggests policies which smaller and weaker states inevitably misunderstand. The United States must be watchful to discourage the formation of a balance of power in this hemisphere. Because of its tremendous strength, the United States must avoid even the appearance of a desire to dominate her southern neighbors, and should be prepared to settle all inter-American disputes, whatever may be their character, by conciliation or by arbitration. This would involve a much broader and more liberal policy with reference to arbitration treaties than the Senate has yet approved.

The general conference on The International Situation in the Far East, led by Dr. George H. Blakeslee, was addressed by a remarkable group of experts. The keynote was the thought that one of the greatest problems confronting mankind lies in the readjustment of the relationship which exists between the East and the West. The need for such a readjustment is manifested by the fact that the East is in revolt. In Japan the revolt is aimed against unequal treatment in immigration legislation; in China, against unequal treaties such as those relating to the tariff, and to extraterritoriality; in India and the Philippines, against the political control of foreign powers.

The survey of the situation in the Philippines developed five suggested solutions, running the gamut from immediate complete independence to the permanent retention of the whole archipelago by the United States, with no further political rights for the people. The discussion of these several policies revealed the impossibility of harmonizing them, and the probability, on the basis of political experience, that neither of the more extreme proposals is likely to gain acceptance. Nor is the suggestion that the islands be partitioned likely to have much support. The proposal which attracted the greatest interest involved some form of "dominion status," such as that occupied by Canada or Australia in the British Commonwealth.

China was described as "the point of greatest friction in the contact of East and West," the outstanding fact being the existence of a newly aroused, intense, widespread nationalism. The demand on the part of China for the abolition of "unequal treaties," the complete control of its own tariff, abolition of extraterritoriality, the limitation of foreign rights of municipal administration in treaty-port concessions and settlements, and the abrogation of treaties which give foreign powers military and naval rights, were reviewed in turn. The conclusion was reached that a tangible beginning must be made in meeting the natural desires of China. Should the powers refuse to take action, the Chinese will probably cancel the treaties which give foreigners special rights. Unilateral cancellation of the treaties would bring about a grave situation. It would probably lead to local military clashes with foreign powers, and to increased bitterness. On the other hand, it is clear that the demands cannot now be granted in full. The responsibility for delay must be divided between the powers and China.

Manchuria was described as the focal point in the conflicting policies and interests of Russia, China, and Japan. An analysis of the historical and economic interests of these countries revealed that each, taken individually, seems to have reasonable claims. It is natural for Russia to wish to maintain control of the Chinese Eastern Railway, which is an integral part of the trans-Siberian system, and to have the exclusive right of further railroad development in northern Manchuria. It is natural for Japan to wish to retain the South Manchuria railroad and the leased territories, which she has administered magnificently, and to wish to coöperate with China in extending railroad development in all parts of Manchuria. It is natural for China, the sovereign power, to demand that both Russia and Japan give up their governmental and semi-governmental privileges and transfer them to China. But, taken together, these interests produce a dangerous situation.

Japanese policy was analyzed on the basis that the country's large population and small territory make necessary coöperation with China. In order to develop this thesis, the successive phases through which this policy has moved since the Russo-Japanese War were passed in review. The policy of the United States was outlined and defended as having been reasonably consistent, indeed more consistent than the policy of any of the other great powers. The United States has always pursued the policy of the integrity of China, and the policy known as the "open door." In addition, it has been the evident purpose of America to treat China as a fully sovereign state, but in doing so, to avoid the

use of military force except in compelling circumstances. While the policy has been consistent, there has not been the same consistency in carrying it out. At times the United States has used the method of independent action, and at other times has turned to that of coöperation with other powers. In recent years she has carried the coöperative method further than ever before, and at present is endeavoring to grant to China almost immediate control of the tariff and seeking to bring about an early modification of the operation of extraterritoriality.

The general conference devoted to Public Opinion in World Affairs under the leadership of Mr. Arthur S. Draper, concerned itself chiefly with the power of the press. The early sessions of the conference were devoted to an analysis of public opinion and its constituent elements, and the importance of intangible influences upon it. The speakers compared the American press with the press of Europe. American newspapers excel in gathering news. The range of matter that is covered, the extraordinary quantity of material that is presented, and the clarity with which events are recorded are striking. On the other hand, American papers do not make as careful selection of the material they print as do some foreign journals. The attempt is to be all-inclusive, and the great daily concerns itself with every phase of life, including the trivialities. In the treatment of its news, moreover, the American newspaper is not as scholarly or as literary as some foreign journals. The American press is, in an outstanding sense, a free press. The expression of editorial comment is not as violent or as bitter as that of party advocates in Europe, but it is untrammeled save by canons of taste. Moreover, the press of America is not subsidized and does not often represent official influence. The suppression of news is not commonly practiced; competition in the field of journalism is so keen that it is virtually impossible. In its endeavor to market its news the American press has developed a tendency to advertise its matter with headlines. This effort to state the essence of the news in a few words often leads to distortion, and one of the chief criticisms of the American press is the tendency to sacrifice accuracy in headlines to pungency of statement. After the analysis of the position and power of the press and the difference between its position in America and abroad, consideration was given to the importance of radio, the moving picture, and political organizations in molding public opinion.

HENRY M. WRISTON.

Lawrence College.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

The headquarters of the American Political Science Association at the St. Louis meeting of December 28-30 will be at the Statler Hotel. Other learned societies (including the American Economic Association and the American Sociological Society) meeting in the city at the time will have headquarters there also. The main features of the program will be as announced in the August issue of the REVIEW. A round table has been added on problems in the study and teaching of comparative government. Persons desiring to enroll in advance as members of particular round tables should communicate with the chairman of the program committee, Professor F. W. Coker, of Ohio State University.

Professor Graham Wallas, of the London School of Economics, will be a member of the staff of the Robert Brookings Graduate School, Washington, D. C., during the spring term, from March to June. He will give a course of lectures on "Ends and Means in Social Organization," and will also direct the research of a number of students.

Professor Joseph Redlich, of the University of Vienna, has been appointed professor of comparative public law at Harvard University for a period of three years. He will conduct a seminar in this field for graduate students.

Dr. R. C. Atkinson has resigned his position in the department of government at Columbia University and is now in charge of research in local government under auspices of the Ohio Institute at Columbus.

Mr. Kenneth C. Cole, formerly of St. John's College, Oxford University, has been promoted to an assistant professorship at the University of Washington.

Professor Charles E. Martin, formerly of the University of California, Southern Branch, is now head of the department of political science at the University of Washington and has been appointed dean of the recently organized faculty of social science.

Associate Professor Jacob Van der Zee, on leave from the State University of Iowa, is conducting the courses at the University of California,

Southern Branch, formerly given by Professor Charles E. Martin. Mr. Odean Rockey has been advanced to the rank of assistant professor at the Southern Branch.

Assistant Dean Rufus D. Smith, head of the department of government at New York University, has been advanced to the rank of full professor. Dr. Rinehart J. Swenson has been promoted to an associate professorship. Mr. Lawrence Fenneman has resigned as instructor in government to accept a legal position in Baltimore.

Dr. Alexander B. Butts, of Mississippi A. and M. College, was visiting professor of politics at the University of Washington during the summer of 1926. He had charge of Dean Martin's courses in international law and in foreign relations.

Mr. Bradford W. West, who has done graduate work at the University of California, and Mr. Claude A. Buss, graduate student at Pennsylvania, have been appointed instructors in political science at the latter institution.

Mr. E. P. Chase, formerly of Wesleyan University, is now associate professor of government at Lafayette College. He gave courses at the University of Vermont in the summer session.

Dr. Carroll H. Wooddy, of the University of Chicago, is spending the year in England studying nominating systems. He holds a Social Science Research Council fellowship.

Mr. Max P. Rapacz, whose graduate work was done at the University of Minnesota and Yale University, has been appointed to an instructorship in political science at the University of Wisconsin.

Dr. Marietta Stevenson, recently a graduate student at the University of Chicago, is now an instructor in political science at the University of Nebraska.

The convocation address at the close of the summer session of the University of Chicago was delivered by Professor A. R. Hatton. His subject was "Representative Government in the Light of Modern Knowledge and Modern Life."

Mr. A. D. McLarty has returned to Illinois as secretary of the Illinois Municipal League and Mr. Orin F. Nolting has been appointed acting secretary of the municipal reference bureau at the University of Kansas.

Professor A. M. Tollefson, formerly of the University of Kansas, is now professor of law at Drake University. The public law work at Kansas has been taken over by Professor Chubb. A new member of the department at Kansas is Mr. Willis A. Gray, formerly an instructor at Cornell University and last year a Carnegie fellow in international law at Harvard University. Professor W. E. Sandelius, who spent last year as a consulting fellow at the Brookings Graduate School, is again teaching at the University.

A Friedrich List Gesellschaft was organized recently in Germany to perpetuate the memory of the well known political scientist and economist, author of *The National System of Political Economy*. Professor A. Spiethoff, of Bonn University, is chairman, and Professor Edgar Salin of Heidelberg is secretary, of the association, whose offices are at 121-123 Neckarstrasse, Stuttgart. Plans are under way for publishing a complete critical edition of List's works, including his addresses and letters, and his recently discovered American and French writings. The new edition will be under the patronage of the German Academy. Frederick List came to the United States with Lafayette, and was a United States consul from 1834 to 1846. He was one of the foremost writers on American commercial policy.

The University of Virginia is establishing a research professorship in problems connected with government in Virginia, to be maintained for a period of five years and probably to be made permanent thereafter. Emphasis is to be placed at the outset on the reorganization of county government.

The faculty of social science at the University of Washington, through its committee on international relations, has established an Institute of International Relations at that institution. Instruction is given in international relations, international law, foreign trade, shipping, international banking, economics, comparative education, diplomatic history, comparative government, oriental subjects, journalism, philosophy, psychology, and sociology. Groups within the social science faculty coöoperating in this undertaking are the departments of anthropology, economics, history, political science, philosophy, psychology, and sociology, the college of business administration, and the schools of law, journalism, and education.

European Conference of American Professors of International Relations. Early in 1926 the Carnegie Endowment for International

Peace invited some fifty teachers of international law and relations to be its guests at a European conference. It was hoped that this project would enable American teachers of international law and relations to become more conversant with the problems of international association and coöperation, to form direct contacts with some of the leading personalities engaged in the work of international coöperation, and to investigate, at first hand, the sources of documentation relating to international association and coöperation—all with a view to making their teaching and writing more effective.

In pursuance of the plan, conferences were held in Paris, August 5–9, at the ministry of foreign affairs, the Commission Internationale de Navigation Aérienne, the American Library and the International Reference Service, the Office International d'Hygiène Publique, the Bibliothèque Nationale, the Institute of Intellectual Coöperation, the International Bureau of Weights and Measures, and the International Bureau of Bibliography. In the Hague, August 10–13, conferences were held with Dr. James Brown Scott, member of the curatorium of the Academy of International Law; M. Hammarskjold, registrar of the Permanent Court of International Justice; M. Crummelin, registrar of the Permanent Court of Arbitration; M. Van Kleffens, registrar of the Arbitral Tribunal for the Interpretation of the Dawes Plan; and Judge Loder, of the Permanent Court of International Justice. The Hague program was appropriately concluded by visits to "The House in the Woods" (where the First Hague Peace Conference was held) and the University of Leyden, and a pilgrimage to the tomb of Hugo Grotius at Delft. The first week of almost four spent at Geneva was given over to attending the Geneva Institute of International Relations. The next ten days were devoted to conferences with members of the secretariat of the League of Nations, the director of the International Labour Office, and the directors of other international organizations located outside of Geneva.

On Wednesday, September 1, the Conference of Signatories of the Protocol of the Permanent Court of International Justice was convened for the purpose of discussing the United States Senate reservations. The sittings were open to the public, and the members of the Endowment party availed themselves of the opportunity to observe this most interesting and important international conference. Without doubt, everyone who attended was impressed with the extraordinary consideration which the delegates displayed for the United States as a

world power, and with the world-wide significance of our politics, governmental procedure, and constitutional organization.

During the fourth week in Geneva, every member of the party had an opportunity to attend numerous sessions of the Assembly of the League of Nations, and some were fortunate in securing admittance to one or more sessions of the Council. Thus they not only had an opportunity to examine into the day-by-day work of what might be called the administrative branches of the League and kindred organizations, actively carrying on the task of international coöperation, but they also had a chance to see the political directing forces at work in international conferences, solving perplexing problems and discussing and shaping policies with a view to the gradual establishment of a new world order.

It is not easy to give a summary of the impressions the members of the party carried away from this unique seminar in international relations. A few are here enumerated. But it should be borne in mind that they do not necessarily represent a unanimous opinion. The following may be recorded:

(1) The realization that the present highly developed and manifold organs of international coöperation are the result of a natural and inevitable evolution in international life. The International Postal Union and the International Bureau of Weights and Measures, to name only two, were simply the forerunners of what we now have; (2) The great concentration, in Geneva, of non-League agencies actively engaged in various phases of international coöperation, and the close coöperation of these agencies with the various sections of the League secretariat. Geneva has indeed become the great international center for world coöperation. This concentration has apparently resulted in increased efficiency; (3) The exceedingly frugal administration of the agencies of international coöperation; (4) The undeniable fact that the League of Nations as a whole is a tremendously powerful, permanent, going concern, although the period of experimentation is not yet over; (5) The far-flung activities of the League. One gets the impression that no subject involving the relations between states has been neglected; (6) The high calibre and technical competence of the personnel of the secretariat. Everyone seemed to envisage clearly the reality of the problems being faced. These problems are being approached objectively; ineffective emotionalism is conspicuously absent; (7) The degree to which politics seems to have been eliminated in the make-up and conduct of the secretariat; (8) The ease with which international

conferences are now held, and the acceptance of this machinery as the normal, ordinary medium for solving international problems; (9) The uniformly high plane of discussion and debate in international conferences; (10) The dual language arrangement seems to make for greater precision and conciseness of expression because of the necessity of translation. Members of conferences debate but do not indulge in mere oratory; (11) There are indications of a drift in the direction of the Council becoming stronger at the expense of the Assembly. However, one was certainly impressed by the fact that the views of the small states carry great weight. They can make their voice heard, even in the Council; and (12) The cordial attitude of the League states toward the United States. This was particularly evident in the meetings of the signatories of the Protocol. They appeared in a receptive, but not a dependent, mood.

Whatever variations there may be in the impressions that the members of the party received from the institutions and organizations visited, all were agreed on the worthwhileness of the venture. The objectives aimed at were attained, and instruction and productive research in the field of international relations will inevitably be stimulated.

FREDERICK A. MIDDLEBUSH.

University of Missouri.

The Los Angeles Institute of Public Affairs. The first annual sessions of the Los Angeles Institute of Public Affairs were held at the Southern Branch of the University of California from July 6 to 10, 1926. The Institute was designed both as an integral part of the regular summer session of the Southern Branch and as a series of meetings to which the general public was invited. A committee of members of the political science department, under the chairmanship of Professor Charles G. Haines, was in charge. The program of the Institute included round table conferences every morning and afternoon and lectures every evening. Certain phases of the following general subjects were treated: traffic and transit, city planning, the administration of metropolitan areas, Chinese problems, and criminal justice.

The session on traffic and transit was presided over by Dr. Miller McClintock, director of the Albert Russel Erskine Bureau of Traffic Research and author of the city traffic ordinance at present in operation in the city of Los Angeles. Among the topics discussed at this session were city traffic problems—with particular reference to the motor

vehicle traffic conditions in Los Angeles—and the proposed uniform traffic ordinances for southern California.

At the sessions on city planning it was predicted, among other things, that within ten years modern cities will have planning commissions empowered to pass on the appearance and safety of every building erected within city limits. The need for strict zoning of residence, business, and industrial areas was stressed. The organization and activity of community art juries were described, and the artistic and aesthetic results achieved by certain community art juries now in existence in various parts of the United States were noted. The "menace of great cities," in terms of the curtailment of the amenities of life and of the conditions which make for physical and moral community health, safety, and civic beauty, was pointed out by Professor Leonard S. Smith, of the University of Wisconsin, and the English garden city was brought forward by him as a suggested remedy.

Mr. C. A. Dykstra, director of the bureau of personnel of the Los Angeles city department of water and power, and chairman of the sessions on the administration of metropolitan areas, suggested that a new type of political unit in cities is in the making—one which may come to be known as the "region." The activities of the regional planning commission, the development of unified highway systems, recreational centers, the functional study of local problems for the purpose of relieving the whole community of duplicating and conflicting agencies, the centralization of assessing and revenue collecting functions, "satellite cities," and the mechanistic elements involved in the reorganization of metropolitan areas were among the subjects dealt with at these sessions.

The sessions on Chinese problems were under the general supervision of Professor Malbone W. Graham. The particular subjects considered included Chinese law, the problem of extraterritoriality, political and constitutional development, Asiatic culture, and the international relations of China. Dr. Frank E. Hinckley, of the University of California, traced the progress of law in China, and Dr. Graham described the course of diplomatic relations between China and Soviet Russia between 1917 and 1926. A large part of the material was presented by Professor Harold S. Quigley, of the University of Minnesota. In his evening lecture on "Chinese Politics and Foreign Powers" one of the significant conclusions drawn was the following: "The suggestion has been made that China should not wait upon the powers but should abrogate her treaties by unilateral action. No friend of China would

endorse such a suggestion. The excitement attendant upon such arbitrary action would be likely to produce outrages and thus to justify intervention, if that result did not follow automatically. . . . The pedestrian route of gradual evolution, encouraged and aided by the treaty powers, is the wiser course in view of China's domestic problems and of her position in the world."

The discussions at both of the round table conferences devoted to criminal justice were led by Professor Roscoe Pound, dean of the Harvard Law School, who also delivered two evening lectures on the subject. The contribution of Dean Pound attracted a great deal of attention throughout the state and particularly among the members of the Los Angeles Bar Association. One reason for the interest of the public in this section was the fact that a California state commission, headed by a local attorney, Major Walter K. Tuller, has been working for some time on plans for the revision of the code of criminal procedure now in force in the courts of California. At the round table conferences certain recommendations contemplated by this commission were presented and discussed.

Dean Pound insisted upon the necessity of bringing scientific study and research to bear upon the problems of criminal justice. He asserted that the weakness of the administration of criminal justice, to which attention is being directed on all sides, may be attributed in large part to difficulties arising from the change from a pioneer, rural, agricultural society to an urban, industrial society. In the effort to meet these difficulties too much emphasis is placed on legislative tinkering with the machinery for administering justice and with the procedure devised for courts and judges. Any program of reform must distinguish: (1) certain inherent difficulties in the administration of criminal justice; (2) certain difficulties which are peculiarly American, growing out of social, political, and legal institutions in this country; and (3) local difficulties of a particular time and place.

In his addresses at meetings of the members of the Los Angeles Bar Association, Dean Pound stressed the importance of the contribution of lawyers toward securing better judicial machinery and developing more simplified and effective methods of procedure. The most impressive meeting in connection with the Institute was the Friday evening dinner given by the Bar Association in honor of Dean Pound. On this occasion Dean Pound spoke on "The Law of the Land," and gave an account of the permanent and enduring elements in the evolution of American law.

The contributions made by the lecturers and the keen interest in the sessions shown both by university students and the general public have given substantial encouragement for the continuance of the Institute. Plans are already being made for a similar meeting next summer.

ORDEAN ROCKEY.

University of California, Southern Branch.

An Experiment in the Stimulation of Voting. In the fall of 1924 an attempt was made in selected districts in the city of Chicago to measure the effect of a non-partisan mail canvass to get out the vote. This experiment was a continuation of the study of non-voting begun in Chicago in connection with the mayoralty election of 1923. The basis of the non-voting study was the collection of six thousand personal interviews. The reasons for not voting given by the persons interviewed were classified and tabulated so as to bring out the relation between typical reasons and the situations resulting in non-voting. A survey of persons who failed to vote in the presidential election of 1924 showed that the distribution of causes of non-voting in the previous study was fairly accurate. The experiment in the stimulation of voting was an attempt to test the causes of non-voting in an objective fashion.

In order to set up this experiment it was necessary to keep constant, within reasonable limits, all the factors that enter into the electoral process except the particular stimuli which were to be tested. The factors known to have some relation to non-voting are: sex, the dramatic quality of the election, the convenience of the voting system, mobility, foreign birth, and the nature of the local party organization. The method of random sampling was used to control these factors during the testing of the particular stimuli used in the experiment.

A thorough canvass was made of six thousand adult citizens living in twelve selected districts in the city. Special efforts were made to list all the eligible voters living in these areas. The second step in the experiment was the division of the citizens in each of the districts canvassed into two groups, one of which was to be stimulated while the other was not. The assumption was made that if a larger proportion of the stimulated citizens registered and voted than of the non-stimulated citizens, the particular stimuli used had had some effect. Since the stimulated and non-stimulated citizens were selected from the same precincts, there was no reason to suppose that the strength of the local party organizations would vary much as between the two groups. Furthermore, the percentage distributions of the stimulated and non-

stimulated by sex, color, country of birth, length of residence in the district, rent paid, knowledge of government, and schooling were practically the same. It can therefore be said that as far as possible these variables were kept constant during the experiment.

After the experimental and control groups had been selected the next step was to determine the method to be followed in stimulating voting. After some deliberation, it was decided to use individual non-partisan appeals sent through the mails. Inasmuch as the previous study of non-voting had shown that the bulk of the non-voters were not registered, emphasis was placed upon increasing registration. The final step in the experiment was the ascertainment of the actual voting response of the six thousand citizens interviewed. After checking carefully the records in the election commissioners' office, a re-canvass was made of all non-voters so as to be sure that none of the citizens who had moved would be counted as non-voters.

The first card sent out was a factual notice regarding the necessity of registration before the presidential election. While most of the cards were printed in English, there were also Polish, Czech, and Italian versions of the notice. Forty-two per cent of the three thousand citizens who received it registered, as compared with thirty-three per cent of the twenty-seven hundred citizens interviewed who did not receive it. The spread of nine per cent between the registration response of the stimulated and non-stimulated citizens is a fairly accurate measurement of the value of mailing a factual notice regarding registration. The second notice, in two different forms, was sent to those who had been subjected to stimulation and who did not register on the first day of registration. Fifty-six per cent of the seventeen hundred citizens receiving one of these notices, as compared to forty-seven per cent of the seventeen hundred and seventy citizens who did not receive it, registered on the second day of registration. One of the second notices sent out was a post card like the first one, while the other was a cartoon notice picturing the non-voter as a slacker. While the two notices had about the same influence in stimulating registration, the cartoon notice was slightly more effective than the factual notice among the women. The cumulative effect of the mail canvass is shown by the fact that seventy-five per cent of the stimulated citizens registered, as compared with sixty-five per cent of the non-stimulated.

In connection with the Chicago aldermanic election of February 24, 1925, a cartoon notice picturing the honest but apathetic citizen as the friend of the corrupt politician was sent to all the stimulated citizens

that had registered the previous fall. Fifty-seven per cent of the registered voters who received this notice actually voted as compared with forty-seven per cent of the citizens who did not receive it. At each stage of the election process, and at different elections, the non-partisan mail canvass to get out the vote had a positive stimulating effect upon the voting response of the citizens interviewed.

The spread between the voting response of the stimulated and non-stimulated citizens was not the same in all of the twelve districts studied. The variations in the effectiveness of the non-partisan mail canvass to get out the vote can be explained for the most part in terms of concomitant variations in the strength of the local party organizations. In general, the notices had the least effect where there were strong local party organizations and the greatest where the local party organizations were weakest.

In three of the districts studied, from fifteen to twenty per cent more of the stimulated citizens registered and voted than of the non-stimulated. In all three of these precincts the voting response of the non-stimulated citizens fell below the average of the entire group studied. The non-voters in these districts were largely citizens who could not find out the details of registration and voting through the medium of the newspapers because of their inability to read the English language. It appeared that a personal notification regarding election matters had a tremendous influence upon them.

Another interesting tabulation made was that showing the percentage of citizens voting, classified according to party preferences. This tabulation showed that the Democratic organization in the districts studied was more efficient than the other party organizations in getting its members to vote. Of the non-stimulated citizens, seventy-three per cent of those known to be Democrats voted on November 4, 1924, while only sixty-two per cent of those known to be Republicans voted. The mail canvass conducted by the University had a greater stimulating effect upon the potential Republican voters than upon the potential Democratic voters. Of the potential Democratic voters who received the registration notice, seventy-five per cent voted—an increase of two per cent over the voting response of the non-stimulated Democrats—while seventy per cent of the potential Republicans who received the registration notices voted—an increase of eight per cent over the voting response of the non-stimulated. An even higher differential between the voting response of the stimulated and non-stimulated was found among the potential La Follette voters (a differential of forty per cent),

but the size of the sample was so small that definite conclusions cannot be drawn from the figures.

The results of the experiment were then analyzed by citizenship status, country of birth, term of residence in the district, and economic status. It was shown that the mail canvass to get out the vote was just as effective among the foreign-born as among the native-born, and also that there was no great variation in the voting response of the citizens classified by country of birth. However, the native-born colored women and the women born in Italy were slightly more responsive to the notices than some of the other groups studied. The reason for this is the lack of civic organizations among these women, such as the League of Women Voters, which is strong among the native white women. The get-out-the-vote notices brought the highest returns among the new residents of the city, largely because without such notification many of them would have been non-voters. The citizens who had lived in their particular election district for less than ten years had a much poorer voting record than the citizens who had been residents of their local community for ten years or more. The experiment showed that it was possible to bring out a larger proportion of the newer residents by the simple device of notification. Of the citizens who had lived in their districts for less than ten years, fifty-nine per cent of the non-stimulated and seventy-two per cent of the stimulated registered, whereas of those who had lived in their districts for more than ten years, seventy-one per cent of the non-stimulated and seventy-six per cent of the stimulated registered. The voting response of the stimulated and non-stimulated by rent paid showed that the better the quarters the citizen lives in, the more apt he is to vote in presidential elections, and that a non-partisan get-out-the-vote mail canvass accentuates this tendency.

From the standpoint of controlling non-voting, the relative voting response of the educated and the uneducated is of considerable interest. The experiment showed that ordinarily more than half of those who cannot read and write English fail to vote. However, the illiterates, when notified regarding the details of the voting process, responded in nearly as large numbers as the literates. In other words, the non-partisan get-out-the-vote canvass had great influence upon the negroes and the foreign-born citizens who could not read English. The citizens who can read English and who are accustomed to receiving mail do not need to be reminded in a personal fashion regarding the mechanics of registration and voting.

The analysis of the voting response of the stimulated and non-stimulated citizens classified according to years in school showed that the more schooling the individual had the more likely he was to register and vote. On the other hand, it was also demonstrated that the more schooling the person had received in this country the less likely he was to be affected by a non-partisan get-out-the-vote mail canvass. There was a differential of eleven per cent between the voting response of the stimulated and non-stimulated citizens who had received less than eight years of school, and a differential of less than one per cent between the voting response of the stimulated and non-stimulated citizens who were college graduates. In other words, the mail canvass counteracted variations in the voting response produced by differences in education. The negroes and the foreign-born whites who had had no schooling were much more influenced by the non-partisan get-out-the-vote canvass than persons who had had some schooling either in this country or abroad.

The voting response of the stimulated and non-stimulated citizens according to the score attained on a simple test regarding American political institutions showed that persons who could answer most of the questions were usually regular voters and did not need to be informed about the voting process. On the other hand, those who could answer few or none of the questions on American government were the non-voters, a surprising number of whom responded to the non-partisan appeals. The significance of this part of the experiment is that persons with some knowledge of politics and government are much more apt to vote of their own accord than those with little or no knowledge of government.

Certain inferences and conclusions seem to be warranted by the examination of the results obtained in the experiment. First, it is possible by the method of random sampling to measure the success of an unofficial non-partisan mail canvass to get out the vote. The same technique might be used to measure the influence of other methods of stimulating interest in elections. Second, a complete notification of all adult citizens regarding the time and place of registration and elections will secure a more complete listing of all persons qualified and anxious to vote than is obtained at present. Such a notification would be a simple matter in a city like Boston where there is an annual police canvass of all adult persons. Third, a complete notification of all the registered voters regarding the conditions and issues to be voted upon would

increase the proportion of registrants that vote in any election. There are several states where such notification is now required by law.

Finally, the experiments showed that knowledge of English, formal schooling, and familiarity with the simplest features of American political institutions are all factors which greatly influence the extent of popular participation in elections. A system of education reaching all adult illiterates would be a great step toward the permanent solution of the problem of non-voting. Too much emphasis cannot be placed upon the value of education as a method of stimulating a sustained interest in voting. The present experiment was largely educational, and the results produced can be traced to the confidence which the information imparted gave to certain persons who had been timid regarding the election process.

HAROLD F. GOSNELL.

University of Chicago.

Invalid Ballots Under the Hare System of Proportional Representation. One of the most widespread objections to the Hare system of proportional representation is its complexity. A Chinese puzzle seems simpler to the casual observer, and the man in the street is likely to conclude that such a method of voting has no value, because he will not take the time to understand it. Even those who have studied it closely often express doubts as to its feasibility for general elections. On the one hand, it requires the voter to express his choices among the candidates in a totally unfamiliar manner, and on the other, it imposes on the election officers a very special duty of being not only honest but accurate. The complexity of the count is probably the greater difficulty of the two. But with the rapid development of the technique of statistical compilation it seems probable that this will soon present no serious obstacle to the widespread use of the system.

The method of voting contemplated under proportional representation requires that the voters be converted from their traditional habits of expressing preferences by cross marks to the somewhat more exact method of expressing choices by means of numerals. If there is any real danger that the voter will be so confused that he will be unable to give an effective expression of his wishes, it would certainly show itself in a large percentage of invalid ballots. Unfortunately, the records of election statistics are woefully lacking on this point. Until proportional representation has once been adopted, little attention is paid to the number of ballots rejected, and if statistics are kept at all they are rarely

published. Even in those cities which have changed to the Hare system, the results have frequently been left unpublished, or, at best, published in inaccessible journals or newspapers.

An effort has been made in Table I to bring together data on this point for proportional-representation cities in the United States and Canada.¹ It will be noted that the experience of these cities in the matter of spoiled ballots has been far from conclusive. The percentage of spoiled ballots varied from 1.7 in the Winnipeg provincial election of June, 1920, to more than 20 in the Boulder, Col., municipal election of 1917. In general, the cities of Canada have a better record than those of the United States.

A number of reasons can be assigned for these differences in the proportion of ballots which could not be counted. The intelligence and literacy of the voters and the vigor of the educational campaign before the election are probably the most important factors. There seems to be some relation, likewise, between the percentage of votes spoiled and the length of experience of the community with proportional representation, the strictness of the election board in ruling out certain types of ballots, and the peculiar provisions of the local election law. In some cases it would appear that the number of invalid ballots varied with the size of the vote or the lack of interest in the issues involved. With so many variable factors to take into account, it would be misleading to compare one city with another.

Nor is it entirely fair to compare the number of invalid ballots in a single city before and after the introduction of the Hare system. Any change in the electoral machinery is likely to cause confusion at first. Furthermore, proportional representation votes are invariably counted centrally or semi-centrally. This makes possible adequate supervision and expert counters, neither of which are possible in the ordinary majority election. The large number of invalid ballots rejected whenever a recount is made under close supervision indicates that this may be an important element in the situation.

In spite of these difficulties of comparison, the experience of Cincinnati in the 1925 election, with regard to the number and kinds of invalid ballots, is very significant. Although the system was new, the vote large, the election laws relatively strict, and the task of the voter complicated

¹ This table has been compiled from "Local Impressions on P. R. in American Cities," *Proportional Representation Review*, April, 1924, 60-85. For supplementary information I am indebted to Mr. George H. Hallett, Jr., of the Proportional Representation League.

TABLE I
INVALIDITY OF PROPORTIONAL REPRESENTATION BALLOTS IN
AMERICAN CITIES

City	Election	Total Ballots	Invalid Ballots	Per cent Invalid
<i>United States</i>				
Ashtabula, O.	1915	3,334	362	10.8
	1917	3,438	262	7.6
	1919	3,294	445	13.5
	1921	5,154	156	3.0
	1923	5,196	178	3.4
	1925	4,781	237	5.0
Boulder, Col.	1917	859	177	20.6
	1919	1,165	275	23.6
	1921	838	73	8.7
	1923	1,995	378	18.9
	1925	3,049	608	19.9
Kalamazoo, Mich.	1918	4,461	157	3.5
	1919	5,997	273	4.6
Sacramento, Calif.	1921	12,607	305	2.4
West Hartford, Conn.	1921	1,679	59	3.5
	1922	1,681	78	4.6
Cleveland, O.	1923	114,613	8,767	7.7
	1925	108,167	8,518	7.9
Cincinnati, O.	1925	124,091	4,361	3.5
<i>Canada</i>				
Calgary, Alta.	1917	5,387	178	3.3
	1918	7,069	643	9.1
	1919	7,041	575	7.8
	1920	8,461	541	6.4
	1921	9,505	409	4.3
	1922	13,483	476	3.5
	1923	11,093	271	2.4
	1925	10,445	237	2.8
Winnipeg, Man. (Provincial)	1920	48,246	819	1.7
	1922	45,078	750	1.7
(Municipal)	1920	29,640	2,077	7.0
	1925	40,210	3,127	7.8
Moose Jaw, Sask.	1921	4,062	232	5.7
	1922	3,093	186	6.0
North Battleford, Sask.	1921	712	15	2.1
	1922	637	28	4.4
	1923	857	64	7.5
Regina, Sask.	1921	4,303	162	3.8
	1922	3,812	162	4.3
	1923	4,292	146	3.4
	1924	6,173	262	4.2

TABLE I (Continued)

City	Election	Total Ballots	Invalid Ballots	Per cent Invalid
<i>Canada (continued)</i>				
West Vancouver, B. C.	1921	303	10	3.3
	1922	558	27	4.8
	1924	547	11	2.0
Vancouver, B. C.	1921	6,310	172	2.7
	1922	11,140	803	7.2
	1922	10,913	741	6.8
South Vancouver, B. C.	1922	2,000	141	7.1
	1923	2,960	246	8.3
	1924	3,953	278	7.0
Victoria, B. C.	1922	4,155	154	3.7
Port Coquitlam, B. C.	1921	221	4	1.8
St. James, Man.	1923	2,212	50	2.3
Saskatoon, Sask.	1921	4,883	278	5.7
	1922	3,364	136	4.0
	1923	4,447	204	4.6
	1924	2,448	68	2.8
	1925	3,147	95	3.0
Edmonton, Alb.	1923	12,955	1,100	8.5
	1924	9,952	462	4.6
Total, United States	....	406,399	25,669	6.34
Total, Canada	....	350,407	16,341	4.66
GRAND TOTAL	....	756,806	42,010	5.55

by the fact that he was presented with six other ballots to be marked with an "x" at the same time that he was asked to vote by choices, only 3.51 per cent of the papers cast were invalid or blank. Even if all of the ballots classed as ineffective up to the last count be added to those illegally marked, the per cent would still be less than five and one-half (5.44). The exact figures are given in Table II.

This low percentage can hardly be attributed to the peculiar features of the Cincinnati electoral system. The Ohio election law seems unnecessarily strict in many points, and there was some complaint that the rulings of the board of elections were unfavorable to the new scheme. The board was bi-partisan. The two Republican members were frankly hostile to the Hare system, and the two Democratic members were only benevolently tolerant of it. Nevertheless, their rulings appeared to be

scrupulously impartial, and for the most part remarkably consistent and reasonably liberal.

TABLE II
INVALID, BLANK, AND INEFFECTIVE BALLOTS

Kind of Ballot	Number	Per cent
Total of all ballots cast	124,091	100.00
Blank ballots	894	.72
Invalid on first count	3,467	2.79
Total invalid and blank	4,361	3.51
Ineffective, 2d to 33d count	2,402	1.93
Total invalid, blank, ineffective	6,763	5.44
Ineffective, final count	9,562	7.69
Grand total of ballots not used	16,325	13.13

The decision of the board of elections on the ballots sent them by the tellers as "doubtful or questioned" is shown in detail in Table III. Altogether, 5,025 went through their hands, 13.6 per cent of which were declared void. The bulk of questioned ballots (4,379) were sent to the board during the first unofficial sorting of first choices and were acted on by them on Thursday and Friday, November 5 and 6. The remainder were ballots which had been passed over as valid during this first sorting and were questioned during the stamping and numbering of the first choice ballots of each candidate. The board acted on these on Saturday and Sunday, November 7 and 8. For convenience, the two groups are designated in Table III under the captions "unofficial count" and "official count" respectively. The percentages in the table are percentages of the total number declared invalid or valid as the case may be.

Nearly half of the invalid ballots were marked with two or more crosses (45.3 per cent). Another important group consisted of those marked with two or more figures "1" (13.4 per cent). A third lot were invalidated by having both a cross and a figure "1" (6.5 per cent). Together, these three groups comprised two-thirds (65.2 per cent) of the ballots rejected. It seems possible that the last two groups might be greatly reduced, if not entirely eliminated, by a change in the method of presenting proportional representation to the electorate. Many organizations used the slogan "mark the ballot with figures." Somewhat better results might have been secured by stressing the necessity of marking "choices" in order of preference.

Another difficulty encountered at Cincinnati was due to the peculiar racial composition of the population. Nearly one-fourth of the people (97,823, or 24.2 per cent) were born in Germany or of German parentage.

TABLE III²
RULING OF BOARD OF ELECTIONS ON INVALID AND QUESTIONED BALLOTS

Declared Invalid, Reasons	Unofficial Count		Official Count		Total	
	Number	Per cent	Number	Per cent	Number	Per cent
2 "x"s	1898	49.7	43	7.9	1941	44.6
2 "1"s	432	11.3	142	26.1	574	13.2
"x" and "1"	192	5.0	88	16.3	280	6.4
No. "1" marked	224	5.9	42	7.7	268	6.1
Ink, colored or in-						
delible pencil	93	2.4	126	23.3	219	5.0
"Yes" or "No"	19	.5	1	.2	20	.4
Mark on line	18	.5	...	....	18	.4
"x" and "1" in						
same square	15	.4	...	....	15	.3
Check (✓)	8	.2	1	.2	9	.2
Minus—"—"	3	.1	...	....	3	.1
Other	84	.9	88	16.3	122	2.8
Sub Total	2936	76.9	531	98.0	3467	79.5
Blank Ballots	883	23.1	11	2.0	894	20.5
TOTAL	3819	100.0	542	100.0	4361	100.0
Declared Valid, Objection						
Erasure	271	47.5	51	49.9	822	47.8
German "1"	76	13.3	14	13.5	90	13.4
"x" in place of "1"	77	13.5	8	2.9	80	11.9
Marked on both						
sides of names	22	3.9	11	10.6	33	4.9
"x" and "1" in						
same square	23	4.0	3	2.9	26	3.7
Written name	10	1.8	3	2.9	13	1.9
Figure out of box	50	8.8	1	.9	51	7.6
Other	41	7.2	17	16.4	58	8.6
TOTAL	570	100.0	103	100.0	673	100.0
Total Ballots Hand- led	4,379		646		5,025	
Percent held Invalid	87.0		84.0		86.6	
Percent held Valid	13.0		16.0		13.4	

* The following explanations may be useful:
 "2 'x's" includes all ballots rejected because more than one name had a cross mark opposite it.

The figure "1" in German script has a hook on it, and sometimes it is difficult to distinguish between it and a "7." This difficulty was not realized at the first sitting of the board, and probably a few ballots were thrown out erroneously on the ground that two first choices had been indicated. The error (if any) was very small, however, for after about eight hundred ballots had been passed on, the board discovered the difficulty and made a closer inspection of the ballots. This problem would probably not present itself in most other communities. In any event, an intensive educational campaign on this point would probably be of great help to the tellers.

Many of the ballots passed on were exceedingly curious and throw considerable light on the mental processes of the voters. Some were marked with Roman numerals, while others had "No" written in every box not containing a figure. Two voters numbered their ballots straight

"2 '1's" includes all ballots rejected because more than one name had a first choice indicated opposite it.

"'x' and '1'" includes ballots with a first choice and a cross opposite different names.

"No. '1' marked" includes ballots having numbers marked but no first choice indicated. See Exhibit I, number 19.

"Ink, colored or indelible pencil" includes all ballots rejected because not marked with the official election pencil provided by the board.

"'Yes' or 'No'" refers to ballots containing writing indicating that the voter was in favor of or opposed to certain candidates.

"Mark on line" includes all cases where the first choice mark ("x" or "1") was on the line between candidates so that it was impossible to tell which candidate was intended.

"'x' and '1' in same square" includes only ballots with both of these marks opposite the same candidate.

"Check (\checkmark)" includes all ballots marked with other marks than a cross, a figure, or a minus, except those having a completely illegible mark.

"Minus—‘—’" includes ballots having a horizontal line in the box opposite the name.

"Other" Invalid ballots includes largely the illegible and those invalid because written on. See below.

"Erasures" did not invalidate a ballot unless it left it in such a condition that the voter's wish could not be discovered.

"German 1" is a figure "1" with a hook on it. It was found that this was easily confused with a "7". Where it was possible to distinguish between them the ballot was declared valid.

"Figure out of box" and "Marked on both sides of names" both refer to ballots on which the voter had placed numbers elsewhere than in the place regularly provided for them.

"Written name" did not invalidate the ballot even though it was written over a printed name which had been scratched out.

down from "1" to "39." The law required these to be counted, although it was obvious that they did not represent a rational choice.

The invalid ballots show even more erratic tendencies. Some voters wrote "o.k." or "opposition" opposite certain names; some drew lines through all but nine names; one voter wrote out "first," "second," etc.; a number underlined nine names. One voter numbered the names on his ballot "1," "2," "3," "1," "2," "3," etc.; another even went so far as to number the paragraphs of the directions at the head of the ballot. These actions may have been due to illiteracy, but the voter who marked "7," "10," "13," "19," etc., evidently thought the Hare system was an intelligence puzzle to test his mathematical ability. These figures were placed after the seventh, tenth, thirteenth, nineteenth names, etc., indicating that the voter had laboriously counted the place from the top which his favorites occupied and numbered them accordingly.

Such ballots, however, were the exception rather than the rule. It seems a fair conclusion that less than one ballot in forty was mismarked because the voter misunderstood the new method of voting.⁸ In other words, the educational campaign had been nearly ninety-eight per cent effective, a truly remarkable record.

This showing is explained in part by the character of the population of the city. There is no large foreign element of *recent* immigrants. For the most part, the people are substantial, middle class, business and commercial folk who have had the advantages of good schools. The city has a very low percentage of illiteracy, whether it be compared with the average for the state, the United States, or other large cities.

Great credit is due also to the splendid campaign of education which was carried on before the election. It began more than a year before the council was to be chosen and included lectures and demonstrations before women's clubs, groups of business men, and church organizations. Both political organizations (the regular Republican organization and the City Charter Committee) made strenuous attempts to reach their supporters with the information necessary for the proper voting response. The newspapers carried a number of articles describing the new system; and during the last week of the campaign a vacant store

⁸ Nearly six per cent of the ballots declared void would have been found invalid under any scheme of voting. This includes those marked in ink, colored, or indelible pencil, those with "yea" or "no" written opposite the names, and those marked with a check or minus sign. Probably part of the ballots classed as invalid for other reasons would have been rejected under the old ward plan.

was rented in the business district where hourly demonstrations were conducted by representatives of the Proportional Representation League.

Work in the schools was by no means neglected. The public education committee of the Woman's City Club enlisted the services of Miss Leona Kamm, a public school teacher, who helped draw up an excellent brochure on the new charter and the Hare system. This pamphlet was so clearly and simply written that it could be used to teach children in the fifth to eighth grades how to mark the ballots. Lessons based on this material were introduced as part of the regular curriculum of the schools. The result was particularly gratifying, both to the advocates of proportional representation and to the people of Cincinnati. While a few districts seem to have been missed in this educational campaign, the efforts bore fruit in almost every precinct. Perhaps not the least of the benefits of the campaign was the reawakening of civic interest which it produced.

RODNEY L. MOTT.

University of Chicago.

BOOK REVIEWS

EDITED BY A. C. HANFORD

Harvard University

Devolution in Great Britain. By WAN-HSUAN CHIAO. Columbia University Studies in History, Economics and Public Law, Vol. CXXIV, No. 1. (New York: Longmans, Green and Company. 1926. Pp. 287.)

This very interesting book is the first full-length study of its subject, and it deserves careful consideration by all students of representative institutions. It is now some sixty years since the idea of home rule all round was seriously mooted in England; and the growing pressure on parliamentary time has given the subject an interest and significance which are undeniable. Dr. Chiao is an enthusiastic adherent of the scheme of devolving legislative powers upon separate parliaments for England, Scotland, and Wales. He hopes, thereby, to revive the authority of the imperial parliament, and to give it ampler time for the discussion of its more urgent business.

Criticism of his book should, I think, lay emphasis upon the lack of institutional insight it displays. Dr. Chiao does not seem to realize that no plan so far submitted has stood the test of discussion. That of Mr. Speaker Lowther, in 1920, perished of its own obvious inadequacy; that of Mr. Murray MacDonald upon the obvious impossibility of an English and an imperial parliament in London, each with its separate administration, and each, conceivably, of an entirely different political complexion. He exaggerates, I believe, the degree to which national temper in the constituent parts of Great Britain demands a national legislature; he takes too literally the assertions in debate of ardent advocates who really represent no one but themselves. He does not see how unsatisfactory would be the duplication of machinery, and how insignificant (education apart) are the problems it is proposed to entrust to the care of the new legislatures. The fact, moreover, that they would be financially controlled by an assigned revenue from the imperial legislature would at once generate friction and hamper whatever experimentalism the new system might engender. Nor does he meet the difficulty of *ultra vires* legislation. Few Englishmen would admit the wisdom of judicial control of legislative action; and such alternatives as have been proposed really amount to a veto of the imperial upon the national cabinets. This would mean not only friction, but from the

simple fact of ministerial responsibility, discussion of imperial action in the legislature. In the homely English phrase, much of what was gained on the savings might easily be lost on the roundabouts.

It is, I think, a pity that Dr. Chiao has not sought his statistics at first-hand, but has been content mainly to quote and classify those of others; for this leaves one with the impression that he knows the theoretic argument better than the facts they are intended to meet. Mr. J. S. Henderson and I, in what are, I believe, the completest statistics upon the problem so far worked out, concluded that local affairs now occupy about one quarter of parliamentary time; but we added, what Dr. Chiao does not seem to grasp, that a scheme of devolution would not save anything like this amount since (1) the financial relations would involve discussion of policy and (2) disagreements would have the same effect. Our view was that a saving of eight per cent of parliamentary time might be effected; and we concluded that the grant (on the German model) of wider powers to existing local authorities would easily meet this need without the creation of a vast and expensive new structure.

Dr. Chiao, one may urge, is really discussing the theory of a twentieth-century legislature in terms of the ideal set up at the height of the laissez-faire period. Things like the closure and the guillotine, which he views with regret, are really necessities if debate is not to be pursued to the point of nauseaion. Much of the expenditure voted (as he notes with horror) without discussion is so voted essentially because it lies within an agreed field of action where opposition is unnecessary and futile. Nor does he deal with the effects of comparable schemes of structure elsewhere. Is he so enamoured of state and provincial legislatures in the United States and Canada as to believe that they would benefit Great Britain? Is he sure that the effect on Congress of the removal from its field of a great area of action has necessarily been of benefit, say as regards labor legislation, to the United States as a whole? Has he sought to measure the relative value of devolution as such against alternatives such as that advocated by Mr. F. W. Jowett or the scheme of committees I have myself urged elsewhere?

If his book goes, as I hope it will go, into a second edition, I think Dr. Chiao should, out of a sheer regard for justice, unknight Mr. Isaac Butt. Had the latter allowed the great fountain of honor to play upon him, he would not have been leader of the Irish party.

HAROLD J. LASKI.

London School of Economics and Political Science.

International Anarchy, 1904-1914. By G. LOWES DICKINSON. (New York: The Century Company. 1926. Pp. xii, 505.)

This book might better have been entitled "The Diplomatic Background of the World War"—for such it is—had not another author who has essayed somewhat the same task already appropriated the title. Mr. Dickinson naturally felt obliged to find a different one. It is what the Germans would call a *diplomatische Vorgeschichte* of the war. It reviews in succession the principal diplomatic events which created the situation that made the Great War an inevitable consequence. By a liberal interpretation of a word, the author characterizes the period covered as one of international "anarchy," which it obviously was not in the usual sense of the term. But it was, as he demonstrates, an era of international "chicanery," "imperialism," "armament competition," and "territorial aggression"—a period of increasing distrust, suspicion, and fear, among the nations of Europe; of kaleidoscopic alliances, ententes, and shifting friendships, a given country being an enemy today and an ally tomorrow; of diplomatic intrigue and hypocrisy; of international stealing and brigandage; of secret treaties and of treaty violations, and, above all, of increasing armaments the effect of which was to irritate and provoke war. The treaties which were concluded during this period, says the author, were all made ostensibly with a view to preserving the peace, and some of the statesmen, perhaps all of them, who made them may have desired that the peace should be kept. But in fact they laid the basis for the Great War because, among armed powers pursuing objects that can only be achieved by war and united by treaties directed against one another, peace is impossible.

The purpose of the author, we are told, was to analyze the causes that led to the Great War. Historians, as he points out, have often confused the fundamental conditions which make war inevitable with the immediate or superficial occasions out of which it arises, and have directed their efforts to explaining the latter as though they were the real causes. Underneath the occasions or immediate incidents lies the general situation which is the real cause, and it is to the understanding of this situation that the author devotes his chief attention. After tracing in a fair and dispassionate, but absolutely frank, spirit the development of the situation in Europe prior to 1914, on the basis of the wealth of historical material which has recently been made available, Mr. Dickinson comes to the conclusion, the correctness of which every one now readily admits, that the war did not come through the act of a single

power but was the result of a general situation which had been created by a succession of events: alliances, alignments, secret treaties, rivalries, outright aggressions, and the steady building up of powerful armaments. The murder at Sarajevo was merely "the Niagara in the fateful stream" down which the nations of Europe had been rapidly drifting for the past ten years. The idea that the assassination of an Austrian archduke was the cause of the catastrophe at which Europe had now arrived, as he clearly shows, was utterly "trivial and false."

Assessing in turn the responsibility of each of the principal participants in the tragedy, he says of Austria that her course was that which any other state similarly circumstanced and menaced would have pursued; of Russia, that Austrian domination of Serbia was as intolerable for her as the dependence of the Netherlands upon Germany would have been for Great Britain, that she wanted Constantinople and the straits, that she had a "historic mission," and that she was afflicted with the whole farrago of superstitions that dominate all states under the conditions of the "armed anarchy." As for Germany, he points out that she backed Austria for the same reason that led France to back Russia, namely the maintenance of the balance of power, and that her policy was that which any other state in her position would have adopted; of France, that she was animated partly by the hope of recovering Alsace-Lorraine and partly by the desire to preserve the balance of power; of England, that she was bound to France by military and naval commitments which, like a suction pipe, were to draw her into the war whether she would or no; and so with the others. But after all, he pertinently adds, discussion of the motives which animated this or that country or the particular interests which were involved is useless. So long as they were aligned as they were, so long as they were armed to the teeth with a view to war, pursued policies that could only be fulfilled by resort to war, made alliances in expectation of war, and conducted their relations in secret because of war, war was bound to come and the responsibility for it when it finally came rests upon all those whose policies had brought about the situation which the author has so well described.

Adverting to the treaties of peace, he asks whether they prepare the way for a safer and better world. If they do, he says, it is not because of their own provisions or because of the intentions or beliefs of statesmen, soldiers, or sailors. But it will be due to the determination of those plain men that "states shall cease to make it their principal object to steal territory and markets, shall begin to think of real people and their

welfare, and consequently shall take seriously and develop into reality that League of Nations whose feeble and precarious existence is the only barrier against a renewal, on an incalculably more terrible and destructive scale, of the Great War of 1914." The provisions of the treaties of peace, he admits, were not all bad, yet the truth remains that they were conceived on the traditional lines aiming at the weakening of the defeated enemy and the strengthening of the victors by the appropriation of territories and by indemnities so absurdly excessive that they had to be reduced.

Unfortunately, he concludes, the terrible lessons of the war have not been learned. Europe is still armed, suspicious, and covetous, even more than before the war. But there are hopeful currents below the surface and a new world is fermenting underneath. The way to peace, he thinks, lies in the development of the League of Nations into a strong organ of international control, an association in which all states must become members. The "legal openings" for war must be closed as the lamented Geneva protocol so provided; there must be "a complete apparatus" for the peaceable settlement of all disputes; there must be arrangements for an equitable distribution of raw materials and the abandonment of protective policies; and above all there must be a general, all-round disarmament.

On the whole no keener, more profound, or more dispassionate analysis of the international situation which caused the war—which in fact rendered it inevitable—has been made. It is based upon an intensive study of the history of the period immediately antedating the outbreak of the war and upon the study of a mass of official documents and other materials recently made available. A bibliographical list of these materials is not the least of the merits of the book.

JAMES W. GAENER.

University of Illinois.

Essays on Nationalism. BY CARLTON J. H. HAYES. (New York: The Macmillan Company. 1926. Pp. 279.)

Here is a serious, thoughtful discussion of phenomena strongly developed in the history of the last century, written with a nice sense of scholarship and with due regard not only for the facts which the author has collected and interpreted but for the legitimate deductions of others. If the author holds his own opinions firmly, he still has regard for those of others; if he sees a concept as dangerous on the one side, he does not despair of using it to advantage on the other.

With Professor Hayes' characterization of nationalism few people will disagree in general, though many may wish to modify it slightly, making it seem perhaps somewhat less artificial. But the distinction he makes between nation, nationality, and nationalism is clear and vital. Possibly the author over-emphasizes the looseness of the linguistic bond uniting the Swiss, the Belgians, and even the varied peoples in the British Empire. The place of historical traditions and cultures is well defined. Especially sane and sensible is the author's insistence that "what any group thinks itself to be is quite as significant as what it really is" (p. 19). But Joan of Arc need not be entirely denationalized.

His story of the "Rise of Nationalism" (Chap. II) will be accepted with little comment. The chapter (III) on the "Propagation of Nationalism" will arouse more question, and also that on "Nationalism as a Religion"; while his studies of nationalism's connection with international war, militarism, and intolerance will perhaps stir up still more. What is said about the Jews and their real connection with nationalism is food for sober reflection. His exposé of the Nordic myth is not only readable and interesting but salutary.

We doubt whether J. A. Cramb, Hugo Münsterberg, and A. T. Mahan can be regarded as those *most* competent to speak in behalf of nationalism. Their words (p. 199) seem to refer to quite a different sort of nationalism than the normal. That there may be conflict between the hierarchy of international religions and the officials of a national state is quite evident. Obvious answers, however, to accusations against the nationalists may suggest themselves.

As to the Czechoslovak "campaign of intolerance and persecution" (p. 209) against the Catholic organization, the latter word surely, the former probably, is too strong. [The prefix Honorable to the name of Thomas (G.) Masaryk is superficial.] Jan Hus, by the way, was something besides a theologian. Actually, is a "kulturkampf" impending in Jugoslavia? In Transylvania religious intolerance is not so palpable (p. 212). If the Protestants were not Magyars and Saxons, the trouble would be small.

Surely in the last essay Professor Hayes has atoned for any sins of those preceding. If he has overdrawn any picture before, now he corrects the coloring and the perspective; if he has over-emphasized an evil side he redresses the balance handsomely and to the satisfaction of most critics. Few will deny the need for some mitigation of the abuses of what he has been describing, something that exists whether we call it nationalism or not. Few will object to his facts, and hardly more will

dissent materially from his conclusions or regard his suggestions as unworthy of serious consideration. Professor Hayes' internationalism does violence to nothing now held dear by the average citizen of a national state. It might well make a man a better citizen of that national state if he were a convert to this kind of internationalism.

The bibliographical note at the end is more than a mere list; it guides as well as suggests.

ARTHUR I. ANDREWS.

University of Maryland.

The Presidential Primary. BY LOUISE OVERACKER. (New York: The Macmillan Company. 1926. Pp. ix, 308.)

This volume is the third of the "Parties and Practical Politics Series" edited by Professor Charles E. Merriam, and is the elaboration of the author's doctoral thesis. It may almost, without exaggeration, be denominated a definitive study of the presidential primary—certainly so with respect to some aspects of the subject such as the history of legislation and the accumulation of statistical records. The thoughtful reader will discover, when he lays the study aside, that the important questions of fact which are left unanswered by Dr. Overacker are really very few; it is a thorough and comprehensive piece of work, albeit her research has brought to light nothing particularly unexpected by other students of this political institution; nor in any large degree are her proposals of reform—well-considered and indicative of acquaintance with the incidents and ramifications of the problem—strikingly unique. Practical limitations control here.

Unsatisfied with a combing of the extant material on primaries, statistics, legislative proceedings, and committee hearings, the author comments: "The ideal method for studying the operation of such laws is for the trained observer to live through the campaigns and gather his data as the experiment is performed before his eyes, as does the pure scientist in the laboratory; only when the social sciences take advantage of the experiments being worked out around them can they hope to develop anything approaching a scientific method" (p. 6). In lieu of this method, obviously impossible after the event, the author has "followed the reflection of the operation of the laws in the daily press." Newspaper material has been very extensively and effectively used.

Chapters are devoted to the time of the presidential primary; the methods of proposing candidates; the control of the action of the

conventions; the form of the ballot and its importance (a phase of the subject elsewhere too much neglected); interest and expense; further control through state action; a national presidential primary; and other aspects of the subject.

After showing that interest, as measured by the size of the vote cast, was little more than half as great in 1916, 1920, and 1924 as in 1912, the author concludes that "real contests always result in popular interest and a large vote, and the real problem is whether the presidential primary tends to bring out real contests within the party" (p. 146). That "the problem of the use of money in presidential primary campaigns can best be approached through the regulation of contributions rather than expenditures" (p. 162) may be true, but the reviewer hardly finds its truth adequately demonstrated, and he somewhat questions the implication of the statement that "if the use of large sums of money does not change votes, it is a foolish expenditure but not dangerous" (p. 157). It would seem that practical politicians either believe money will change votes; or else they have displayed phenomenal histrionic powers in this connection. Motives are not lacking for the latter course. However, the expenditure of \$500,000 will not win an election over the expenditure of \$100,000 any more certainly than an investment of \$500,000 will return a greater sum than an investment of \$100,000. For one thing, something depends on the person's knowledge of investments. A classification of the expenditures, by object, of the aspirants in 1920 would have been interesting and valuable.

The author tacitly approves the principle of the primary and finds the cause of most criticism not in the nature of the system itself but in its limitation to a few states (p. 180). Conceding that the choice of the primary and the choice of the convention were the same in only three out of eight cases (and even then not necessarily because of the primary), she believes the primary has often affected the course of national politics, has eliminated the contesting delegation, has provided an orderly way of settling contests over party leadership in the states, and has rendered the delegates elected by it more responsive to popular wishes (p. 170), so that the states possessing the primary in effective form will hardly discard it (p. 205). The primary will probably remain as it is until some repetition of 1912 (p. 185). Almost insurmountable obstacles lie in the path of a national primary law, which could only follow a constitutional amendment (p. 201), although there is a practical chance for a beneficial extension of the state system through a uniform primary day, uniform provisions for filing candidacies, and uniform

methods of controlling delegates (p. 183). A very few rather inconsequential inconsistencies of statement appear.

The text is followed by a digest of the various state laws, numerous impressive statistical tables, existing and proposed ballot forms, an extensive bibliography, and a detailed index.

Unfortunately, the relation between political research and practical politics is such that almost certain neglect by state legislatures awaits Dr. Overacker's unquestioned conclusions regarding the modifications necessary to an improved functioning of the presidential primary.

RALPH S. BOOTS.

University of Pittsburgh.

Political Changes in Massachusetts, 1824-1848. A Study of Liberal Movements in Politics. BY ARTHUR B. DARLING. (New Haven: Yale University Press. 1925. Pp. xii, 392.)

It is an interesting coincidence that this volume and the concluding volume of James Truslow Adams' distinguished "History of New England" should appear at so nearly the same time. The two admirably supplement each other. Mr. Adams begins at an earlier date and treats New England as a whole. He excludes from his story, however, that phase of New England's development to which Dr. Darling devotes his entire book. But both are concerned with different aspects of the process by which New England and its individual peculiarities became submerged in the growth of national sentiment. To say that the old currents of life and thought which were distinctive of New England have been altogether obliterated would even today be an extreme statement. Much of the old wine can be found in new bottles, and it has not entirely lost its flavor even though greatly diluted. The Puritan aristocracy, like the Romans who submitted to the Germanic invaders, went far toward subduing its conquerors.

The period with which Dr. Darling deals is that in which the politically submerged elements in Massachusetts sought to give reality to the popular shibboleths that had been used in the War for Independence and to gain for themselves the political privileges which the leaders of the Revolution had proclaimed to be the rights of man. It was a class struggle for the deposition of the government of the rich and the well-born, and for a social, economic, and political readjustment. At the close of the War of 1812, Massachusetts was still predominantly an agricultural and seafaring community, but the new lands of the west

soon began to attract the New England farmer, and the fortunes amassed in maritime commerce were devoted to the development of textile manufactures which transformed Massachusetts into an industrial state. Men were drawn away from the farm and fishing communities into factory towns where wages were higher and conditions of life more attractive. Immigration from Ireland introduced a new social and religious element which produced profound effects. These economic and social changes were reflected in party politics. As an industrial community, Massachusetts turned from free trade to protection, and in that movement Daniel Webster followed his constituents. In the rebellion against the dominance of the so-called privileged classes, Andrew Jackson and his party, who were anathema to the adherents of the old order, obtained the support of more than one-third of the voters of Massachusetts—a fact sufficiently indicative of the discontent which prevailed and of the strength of the forces which were not only shifting the center of political power in Massachusetts but carrying the state into the currents that were affecting the country as a whole.

Dr. Darling's volume is a detailed history of the process by which the political system of Massachusetts was transformed and the isolation of the state was terminated. It is based upon an amazing amount of research among manuscripts, both public and private, and pamphlets, newspapers, and documents. The materials are well arranged. The author has constructed a clear narrative of an intricate story and is particularly skillful in his use of excerpts from his sources. His judgments are moderate and seem well founded. All in all, he is to be congratulated upon a highly creditable achievement.

LAWRENCE B. EVANS.

Washington, D. C.

Municipal Government in the United States. BY THOMAS HARRISON REED. (New York: The Century Company. 1926. Pp. vii, 378.)

The Government of American Cities. BY WILLIAM BENNETT MUNRO. Fourth edition. (New York: The Macmillan Company. 1926. Pp. viii, 491.)

Documents Illustrative of American Municipal Government. BY THOMAS HARRISON REED AND PAUL WEBBINK. (New York: The Century Company. 1926. Pp. xiii, 603.)

The continuing importance and widespread interest in the problems of municipal government in the United States are evidenced by the

number of new books on the subject which are being published and announced. Most of these, like the three here reviewed, are intended primarily for use in college and university courses, where municipal government usually takes second place after the introductory course in government. In these respects conditions have greatly changed in the twenty-five years since the first attempt at a comprehensive treatment of this subject appeared.

All three of these works deal particularly with city government in the United States, and in this respect show a trend away from the former practice of comparative studies, with emphasis on conditions in European countries. This is probably due to the improvement in American cities and the increasing complexity of the problems in this country. To the reviewer, however, there still seems some advantage in the broader outlook over municipal problems in other countries.

The two text-books not only cover the same general field, but deal for the most part with the same topics: municipal history, the relations of city and state, city politics, municipal organization, and some general problems of administration. Professor Reed gives more attention to the historical development of municipal institutions in this country, the home rule charter system, the recent experiments in proportional representation, and the larger cities of the Middle West. Professor Munro has extensively revised and added to this edition, not only from his two-volume work, but also new material, notably the chapters on urban public opinion and the criteria of good city government. Both books are well written, and student and teacher alike will find it worth while to supplement the one with the other.

Some phases of the subject, however, do not seem adequately covered by either of these books. There is little about the considerable development of state administrative supervision in this country. Not much is said about the smaller cities, even those with which the authors should be most familiar. Professor Munro's index does not include Cambridge or Pasadena; Professor Reed does not mention Ann Arbor, and has only a footnote reference to San José.

Neither author discusses fully the problem of the relations of the city government to other local authorities. Both approach this in chapters on greater metropolitan cities. Professor Reed deals with the three leading cities of Europe and New York, with some account of special districts; but does not go into other cases of partial city-county consolidation. Professor Munro takes up the four American cities of New York, Chicago, Philadelphia, and Boston, but confines himself to the

city governments without considering the integration of the metropolitan areas. The general problem, too, is one which concerns, not only other large cities, but even smaller places, where the multiplication of overlapping authorities is a serious matter.

The collection of documents, published in the same series with Professor Reed's book, will be useful material to supplement the textbook. The reviewer believes that original documents of this kind should be included in case books in the law of municipal corporations. For the undergraduate student, this collection contains too much of some kinds of material and not enough of others. A carefully selected group of cases and more sample municipal ordinances would be better than some of the extracts from constitutions, statutes, and charters.

JOHN A. FAIRLIE.

University of Illinois.

The United States as a Neighbor. By SIR ROBERT FALCONER. (Cambridge, England: The University Press. 1925. Pp. 259.)

The Unreformed Senate of Canada. By ROBERT A. MACKAY. (New York: Oxford University Press. 1926. Pp. xvi, 284.)

Charles Buller and Responsible Government. By E. M. WRONG. (New York: Oxford University Press. 1926. Pp. viii, 352.)

Last year the trustees of the Watson Foundation invited the president of the University of Toronto to deliver the annual course of lectures at various English universities on American history and institutions. The experiment proved particularly interesting inasmuch as Sir Robert Falconer selected his subject from the field of Canadian-American relations and elected to treat his topic from a distinctly Canadian point of view.

The lectures, which are essentially popular in character, are intended to afford the public a general view of some of the chief political and social factors in the United States which have materially influenced the course of Canadian life and institutions. The speaker is manifestly not especially conversant with the details of American history, but when he comes to discuss the more analytical phases of his subject he proves himself to be a keen critic and observer of our national psychology and *kultur*. His treatment of our economic life and educational systems is most sympathetic as well as fairminded and discriminating. Especially valuable is his criticism of the weakness and intolerance of American democracy.

Thanks to her new national status and to her inheritance of both English and American traditions, Canada is destined, he believes, to play an important rôle in Anglo-American relations as mediator and arbitrator between the two great nations. It is somewhat doubtful, however, if many of the Canadian public have yet risen to this high statesmanlike concept, if one can judge from the utterances of many of the politicians and papers during the recent electoral contest. But in any case the author has made many interesting suggestions for the promotion of a better understanding on both sides of the border, and it is sincerely to be hoped that this little volume will enjoy a wide circulation on this side of the line, for its own sake and also as a corrective of some of our national complacency.

Dr. Mackay's volume on the Canadian Senate makes a valuable contribution not only to our knowledge of the actual workings of the Canadian parliament but also to the problem of the organization and functioning of second chambers. The study is particularly significant in that it emphasizes the peculiar difficulties which arise in attempting to reconcile the principle of cabinet government with the tenets of federalism and the revising functions of an upper chamber.

The Canadian Senate has usually been regarded as the weakest and most inefficient of second chambers, but the author almost succeeds in rehabilitating its reputation among critical and scientific observers, even if not in the minds of the Canadian public. It is a pity, however, that the author has not seen fit to carry his careful analysis beyond the mere formal debates in the Senate in order to discover if possible, something of the racial, religious, and economic factors which have influenced the conduct of the members of that body. This phase of the subject has been largely neglected, notwithstanding the fact that many of the attacks upon the Senate have been based upon the close connection of many of its members with the chief business interests of the country.

In conclusion the author attempts to outline a plan for reforming the upper house, but it is to be feared that this somewhat academic scheme will go the way of many similar proposals if perchance it falls into the hands of old-time politicians.

Students of British colonial history have long been familiar with the name of Buller in connection with the group of ardent young radicals who were largely responsible for bringing about the momentous colonial reforms in the middle of the nineteenth century. Most of the other leaders of this school have already received due consideration, but

Buller unfortunately has been largely neglected. This deficiency has now been supplied by Mr. Wrong's brief but admirable study of Buller's political career, to which he has added a still more valuable interpretive chapter in which he analyzes the purpose and significance of the program of colonial autonomy in the minds of Durham and his associates. This study was intended by the author to serve as an introduction to the republication in more accessible form of Buller's monograph on "Responsible Government for the Colonies" and Wakefield's article on "Sir Charles Metcalf in Canada." With the reprinting of these two documents, practically all the important constitutional material dealing with Canada during this period is now readily available for students of colonial history and government. The way has been prepared for an authoritative study of the liberal imperialist movement of that day. Mr. Wrong's promising beginning leads us to hope that he may undertake this more important task, since his early training in Canada and his subsequent experience at Oxford peculiarly fit him to understand and interpret both the colonial and imperial points of view.

C. D. ALLIN.

University of Minnesota.

The United States and Mexico. By J. FRED RIPPY. (New York: Alfred A. Knopf. 1926. Pp. xii, 401.)

The Diplomatic and Commercial Relations of the United States and Chile, 1820-1914. By WILLIAM RODERICK SHERMAN. (Boston: Richard G. Badger. 1926. Pp. 224.)

It is significant of the growing interest in international relations that two books have been published within the current year giving a more or less comprehensive history of the diplomatic relations of the United States with two other countries, both of them Latin-American. In the first of these volumes Professor Rippy covers the diplomatic relations of the United States and Mexico from the independence of the latter to 1924. The treatment is inevitably chronological in a measure, but the author has skillfully divided the book into chapters which cover very definite subjects, six of them dealing with different phases of the period 1848-1853. Only one chapter was necessary to develop Buchanan's "manifest destiny" policy (a policy not peculiar to him), but it is done in a very satisfactory way. The same is true of Wilson's vastly different policy. One chapter deals with some of the recent dangers of American intervention, following "peaceful penetration," and a final one gives a

summary and some conclusions. Two maps, a very extensive bibliography, and an index add to the usefulness of the volume.

The book is crowded with facts from cover to cover, and these facts will give the casual reader who got his ideas of the history of our relations with Mexico from the followers of Jay, Schouler, and other members of the "conspiracy" school a rude awakening. Instead of finding that the Mexican war was a diabolical conspiracy of the slaveholders he will discover that the movements which culminated in the annexations of 1845-1853 were part and parcel of a general imperialistic urge which has characterized the nation, not simply one section of it, almost from the time of its birth. Perhaps it was fortunate for Mexico that slavery stood in the way of further expansion in the fifties, when such an anti-slavery man as Eli Thayer declared that "*we must have territory*" and prophesied that we would one day extend to the isthmus. Also, it was fortunate for her in the days of Fall and Doheny that President Wilson blocked the game for going in to "clean up" Mexico.

As just indicated, the book is crowded with facts; rarely and only in a moderate way has the author made any display of emotion. His facts often condemn the action of the United States, but Professor Rippy has not closed his eyes to facts uncomplimentary to Mexico, as the older emotionalists did.

Professor Rippy's distinctive contribution is in laying bare the plotting and scheming of 1848-1860 and in showing that Diaz was not altogether hand in glove with the exploiters of his country. In bringing together these and other facts the author has gathered from a wide range of material, much of it unpublished.

The book has many excellent points, but one is surprised at the small amount of space devoted to the period down to 1848. Possibly this is due to the fact that this period has already been covered reasonably well, but this hardly justifies the mention of J. Q. Adams only once and that not in connection with any attempt to buy Texas. In the "Projects of the Confederates" mention might have been made of the fruitless mission of Polignac back to his native France at the request of Governor Allen, of Louisiana, which had its connections with the Confederate negotiations with Napoleon and Maximilian in regard to the Mexican adventure. While the pacific penetration of big business in Mexico is treated fairly well, the account of its relations to diplomacy is a little disappointing. The page of errata did not catch quite all the errors, such as "arose" (144) and "give" (266).

In the second book of the year tracing our diplomatic history Dr. Sherman deals with Chilean-American diplomacy from 1821 to 1914. Seven chapters divide the book into as many "periods," beginning with the "Revolutionary Period" and closing with "The Period from 1892 to the World War." A few of these periods are somewhat natural, others more or less arbitrary, looking as if they had been adopted for convenience in dividing into chapters after the chronological treatment had been decided upon. Judging from the ever-recurring claims, "The Period of Claims Prosecutions" might have been used to cover the whole field.

The chronological method is followed with few interruptions. The reader is told that Mr. A was appointed minister to Chile, that he took up his residence on a certain date, that certain problems arose during his stay (never omitting claims, if his stay was of any length), that he departed this Chilean diplomatic life on a certain date and was succeeded by Mr. B, and so on to Mr. Z.

The chronological method has the advantage of allowing the author to bring in anything he sees fit to notice. The shortcomings of the method are too well known for recital here. In this case the reader finds it a little difficult to follow some of the incidents to the final issue, for example, a claim extending over thirty or forty years. And the difficulty is increased by the absence of an index.

Students of our diplomatic history will find this a useful and, in some parts, an interesting book. It illuminates the background of the pending dispute over Tacna-Arica and, in language which but for the lack of space I should quote, reveals the rather inglorious part played by the United States in the earlier days of the trouble (141 ff.).

The book bears many of the earmarks of a doctor's thesis, but lacks one essential of any book intended for scholars, i.e., an index. The bibliography and citations, which are incorporated in the text in parentheses, cover a considerable range of materials.

DAVID Y. THOMAS.

University of Arkansas.

Public Authorities and Legal Liability. By GLEESON E. ROBINSON.
(London: University of London Press. 1925. Pp. ex, 286.)

This work by Dr. Robinson, prepared before the outbreak of the late war, has a more timely interest for American as well as English readers than when it was written. With the recent development of the sphere

of public administration, the effect of the earlier theories of public immunity from actions by private persons, a privilege which daily grows more extensive in fact if not "larger" in law, becomes more apparent, and the judicial control of the ever-increasing governmental agencies becomes a problem of the first importance. We have here a scholarly study of the methods by which the English courts have endeavored to solve this problem, with a result in many ways more successful than that achieved by our own courts.

Naturally the subject of the liability of public agencies to actions in tort assumes the first place in the author's treatise. It would be out of place to enter upon a technical discussion of this question in a brief review or to attempt an extended comparison of the English and American cases. It is sufficient to say that the present work is the most complete and authoritative analysis of the English decisions that has yet appeared. It may be well to point out, however, that beginning in the early part of the nineteenth century with the same historical background, the English courts have avoided the pit-fall of making the test of liability of subordinate governmental agencies to turn upon the "public" or "private" nature of the activity complained of and have refused to extend to them the immunity of the crown in any case of "misfeasance," the definition of which has been gradually extended so as to cover, with the one exception of the care of highways, practically every instance in which the sub-governmental authority undertakes to act. So that outside of the great governmental departments, the administration of justice, and the police, in the strict construction of that term, the municipalities and other subordinate incorporated governmental agencies are held practically to the same degree of liability as private persons for damages resulting from the invasion of the rights of the subject. Such an anomaly as the exemption of a municipality from liability for damages resulting from negligence because its servants at the time happen to be engaged in operating a fire department, a school, a park, or other so-called "public," as distinguished from "private," functions is in England an unknown principle of decision.

This formulation of more fortunate and salutary principles of municipal liability may be ascribed partly to the fact that this phase of the law was of later development in England than in this country. It was not till about the middle of the nineteenth century that it became necessary in England to create subordinate administrative bodies to perform many of the public functions of the state; so that, when the Mersey Docks

cases came before the House of Lords in 1864 and 1866, it was already apparent that great inconvenience would result from the application under changed conditions of the doctrine of the exemption of the crown laid down in some of the earlier cases. The broad rule of construction of statutes conferring governmental duties upon subordinate corporations laid down by Blackburn in the Mersey Docks case "that, in the absence of something showing a contrary intention, the Legislature intends the body, the creature of the statute, shall have the same duties and that its funds shall be rendered subject to the same liabilities as the general law would impose upon a private person doing the same things" marked the parting of the ways from the earlier decisions based upon an erroneous dictum of Lord Kenyon in the famous case of *Russell v. The Men of Devon*, which already had become the precedent upon which the American doctrine of non-liability in tort of municipalities when engaged in discharging "public" or "governmental" functions was founded. The fact that the highest courts of many of our states are today disturbed by the unsatisfactory results of the application of this classic American principle, as may be seen from a reading of Professor Borchard's exhaustive studies of this subject recently published in the *Yale Law Review*, suggests how valuable the present work may prove in assisting us to solve similar problems that confront us at home.

The introductory chapter on "Remedies Against the Crown," by Professor Morgan of the University of London, taking up many questions of administrative control from the point of view of political science, is in itself a valuable contribution from one who speaks from a broad knowledge not only of English but of Continental and American government as well. While the immediate question of the statutory extension of the immunity of governmental agencies from judicial control is doubtless more serious in England than in this country, his consideration of the relation of the executive and judicial departments is especially pertinent to some of the problems of our federal administration.

Dr. Robinson's technique also calls for a passing word. His analysis of the subject tells for clearness, he covers thoroughly the principal cases in his text and omits the citation of all unnecessary authorities; in fact, the work is not cumbered by a single footnote of any kind. A complete table of cases referred to and discussed and a comprehensive index are indicative of the author's courteous recognition of the assistance to which every reader of such a technical work feels himself entitled.

C. W. TOOKE.

Georgetown Law School.

Cases on Foreign and Interstate Commerce. By CHARLES WILLIS NEEDHAM. (Chicago: T. H. Flood and Co. 1925. Pp. xiii, 1526.)

This volume is a significant example of the process of differentiation which is going on in the study of law. Not only do the schools make provision for the study of all the chief heads with which a practicing lawyer may be called upon to deal, but important subdivisions begin to demand individual attention. In the case of constitutional law it is natural that the commerce clause should be the first to receive such recognition. Historically, it is the foundation of our present constitutional system. It was the desperate condition of our commerce, both foreign and domestic, which started the chain of events leading up to the formation and adoption of the Constitution. The inability of the government under the Confederation either to enforce the commercial treaties into which it had entered or to prevent the imposition by the states of burdens upon interstate commerce made it clear that full and exclusive power over interstate and foreign commerce must be vested in the national government.

The judicial history of the commerce clause presents an interesting development. Vital as it was known to be to the life of the country, it was not until 1824, thirty-five years after its adoption, that the Supreme Court was called upon to interpret it. It is now invoked in litigation more often than any other clause of the Constitution. The early decisions dealt chiefly with the extent to which it operated as a restraint upon the states, while the Court is now more concerned with the extent of the authority which it has vested in Congress. Beginning as a means of preventing hostile legislation by the states, it has come to be a charter granting to Congress the power to take affirmative action for the promotion of commerce as an instrument of public welfare. In the comprehensive words of Chief Justice Taft, "To regulate in the sense intended is to foster, protect and control the commerce with appropriate regard to the welfare of those who are immediately concerned, as well as the public at large, and to promote its growth and insure its safety."

This book is not the product of a scholar's cloister, but is the fruit of the learned editor's many years of labor as solicitor for the Interstate Commerce Commission. It is a book primarily for lawyers, present and prospective. In accordance with the fundamental principle of constitutional construction that the instrument must be read as a unit, the first chapter, entitled "Introductory Study of the Fundamental Law," places the commerce clause in its proper setting, and deals with the

nature of the government of the United States, its sovereignty, and the rules for the interpretation of the Constitution. Then follow ten chapters dealing with the definition of the words "commerce" and "regulate," the subjects of federal regulation, the power of Congress over waterways and over acts lessening the volume of interstate or foreign commerce, the supremacy of the federal power, the powers of the states over interstate commerce, the federal regulation of intrastate rates, the beginning and termination of federal control, and the means and methods of regulation. The cases are taken for the most part from the decisions of the United States Supreme Court, but there are a few from inferior federal courts and from state courts.

The present volume is to be followed by another dealing with the powers of the Interstate Commerce Commission and with practice before it. In these two volumes students of constitutional law and commerce lawyers will find an invaluable collection of judicial authority upon a clause of the Constitution which daily increases in importance.

LAWRENCE B. EVANS.

Washington, D. C.

The Social Control of Business. By JOHN MAURICE CLARK. (Chicago: The University of Chicago Press. 1926. Pp. xviii, 483.)

Professor Clark's book is a most useful contribution to the literature on the relation of society to business. This problem is now getting the attention its importance deserves, and the wholesome effect of much study and discussion is significantly reflected in the policies of self-government developed by business itself and based upon business practices codes fixing standards of conduct that in some ways are in advance of the regulatory policies of the government.

The book is divided into three parts: "Underlying Conceptions and Conditions," "The General Instruments of Control," and "Protecting Consumers Against Exploitation." Part I discusses the nature, development, and purposes of social control. An interesting chapter is devoted to our relation to machines, pointing out the ways in which the mechanical revolution has increased our interdependence and the resulting need for control. Part II deals with the legal or formal methods of control, involving an analysis of the nature of law, rights, and liberties, and their relation to the problem. Competition as a factor of control is discussed in one chapter. Two chapters are devoted to informal controls, as manifested largely through professional and business codes of ethics. Part III concentrates on the problems of price control, public utilities,

and trusts, introduced by a survey of the historical background and underlying conditions out of which these problems grew.

This is essentially a discussion of individualistic economy. Individualism is private industry under social control. The author finds much in the individualistic régime to criticize, but does not regard its defects as irremediable. What, he asks, are the purposes which our existing social machinery favors? The answer is that "It is adapted not so much to directing us toward goals as away from evils; not so much to telling us what we shall do as to what we shall avoid. It is adapted to dealing with definite and tangible subject-matter such as products, prices, accidents, industrial diseases, or stoppages of work; but even with such matters it deals fumblingly, groping for standards and confused by false issues and all the demagoguery with which the term 'politics' has become synonymous. The more important long-run interests of the people are left to work out their own salvation; they are virtually un-planted by-products of the industrial process" (pp. 81-82). The remedy, however, is not to be found in substitute systems of control, that is, state socialism, communism, syndicalism, guild socialism, or anarchism (Chap. XV), nor in public ownership of industry (Chap. XXII), but rather in an organization for social control that is applied "in industry itself on the frontier where new policies are being worked out. As it is now, our political machinery waits until the industrial machinery has acted, and then does its feeble and belated regulating after the most decisive issues have already been settled" (p. 65).

The book is well written; there is scarcely a dull page in the entire work. The author's attitude toward his subject is discriminatingly critical, his judgments are balanced and judicious. However, it is sometimes difficult to know when he is merely analyzing, giving arguments pro and con, and when stating his own views and conclusions. It further appears to the reviewer that the materials are not as logically arranged as they might have been. The several types of control could have been more clearly differentiated; as it is, there is some repetition and not a little cross-fire. Some readers will question the author's premise that the existing system of industrial control is in fact individualistic; many individualists feel that it is rather a modern refinement of the restrictive policies that preceded the rise of individualism in the middle of the eighteenth century.

RINEHART J. SWENSON.

New York University.

Religion and the Rise of Capitalism. By R. H. TAWNEY. (New York: Harcourt, Brace and Company. 1926. Pp. xii, 337.)

This is one of the important books of the year. It cannot be put aside as a book likely to interest only the theologian or the economist. Essentially it is a book about politics. Nowhere would it be easy to find a more adequate refutation of that comfortable cant which, during the last two centuries, has assumed the possibility of separating the province of religion from the sphere of business and of social problems. It is the merit of St. Augustine and of M. Combes, of Gregory VII and of Señor Calles, that they recognize this fact. Why this belief arose and how violently it contradicts the preceding theories of Christian moralists, patristic, scholastic, and protestant, Mr. Tawney's book helps to explain. This book does for English readers what the excellent little treatise of Sommerlad and, more indirectly, the monumental work of Troeltsch have done in German; namely, indicate how emphatic, clear-cut and, from a modern standpoint, revolutionary has been the Christian social theory. This theory, by its very conservatism, has conserved the ideas and ideals of a pre-capitalistic society. Combining the prejudices of the early peasant and servile church, the later land-owning church, and the Greek philosophic contempt for the "mob of the wealthy," the formal exponents of this theory condemned the man who exacted interest to excommunication while living and to be rejected from holy ground at death.

Mr. Tawney's book, however, contains more than an exposition of the orthodox moral dogma of the early and middle period of Christianity, upon which the Vatican ceased nominally to insist only in the last century. He goes on to explain how this doctrine of the canon law, which identified unlimited profit with ungodly greed, and thrift when the poor had need, in Jerome's words, with theft, was appealed to by Luther, who had burned the *corpus juris canonici*, was weakened by Calvin and, despite its affirmation by such divines as Latimer and Baxter, was abandoned at the close of the seventeenth century. This *volte face* of respectable morality is in part to be explained by one of those great mechanical changes which, unobserved, revolutionizes our ethical principles. The improvement of communications had again made the world one of rapid movement, of commerce, of business loans. The brotherly world of the village and the monastery had disappeared amid the lamentations of divines, as the world of mutual acquaintance of the city-state had disappeared amid the vaticinations of philosophers.

Not only a change of civilization, however, accounted for the change of outlook. The underlying belief of Judaism that the years of a man's life and the number of his sheep were a sign vouchsafed from on high that one was accounted righteous by the Lord, was received with welcome by the Old Testament-studying Puritan and took the sting out of the New Testament condemnation of care for mundane affairs. Mr. Tawney, with his accustomed scholarliness of manner and lucidity of style, has rendered a great service by explaining these origins of the dour reconciliation of godliness and gain (later more mildly phrased by Mr. Smiles), whose exponents observed that business incompetence was no virtue, but failed to observe that, if the religious man is to abandon his contempt for the gains of this world, he must also abandon his individualistic disdain for the society of this world and its communal obligations.

The Puritan, in the name of the hereafter, set his face against the pomp of the Church, pilgrim to the next world but regulating with power the affairs of this, which insisted that the acceptance of the faith involved a social manner of life of which the habits were to be regulated by the Church. Within a generation the secular economist had arisen. But by destroying the power of the churches—now sects clamoring at the portico of the Heavenly Kingdom not on earth—the Puritan involuntarily strengthened the hands of Caesar, custodian of order and morals in this "kingdom of our mortality." Whoever wishes to study an example of what Hegel calls "the cunning of the Idea" cannot do better than to turn to Mr. Tawney's book for an object lesson in the ironic logic of history.

G. E. G. CATLIN.

Cornell University.

Eugenics and Politics. By FERDINAND CANNING SCOTT SCHILLER.
(Boston: Houghton Mifflin Company. 1926. Pp. 218.)

This book is a series of essays by a eugenist designed "to arouse interest in the subject, and a conviction of its vital import, and to prepare a receptive and appreciative audience for the biological expert if, and when, he descends from the Sinai of Science with the New Commandments which are to ensure our salvation by eugenics" (Preface). The volume is both prophetic and messianic. Its postulates are that the human race is rapidly going backward, as the upper classes are not maintaining their rate of increase, and the lower classes are propagating more than their proportionate share (p. 15); that the cause of this

deterioration is civilization—"it is the duty of the eugenist . . . to accuse Civilization of insidious treason against human kind" (p. 81); and that without some effort to save itself society must "sink so low that no amount of tradition and inherited knowledge can keep alive the congenital idiots of which it will eventually be composed" (p. 92). The remedy is the eugenic state (Chap. II), though exactly what this is the author does not make clear.

Among the bright spots of this volume are a dialogue which takes place between the author and Plato in a dream (Chap. V), and an essay on "The Ruin of Rome and Its Lessons for Us" (Chap. VI). The author is interesting when he announces that "cannibalism becomes a social danger only when the taste for human flesh it generates preys upon the tribe itself, and the warriors improvidently devour their women and children" (p. 12); that "the chief effects . . . of endeavors to improve social conditions by our present methods (poor relief, unemployment doles, etc.)" is to "promote the survival of the unfit and the defective" (p. 15); that there is good in inheritance taxes because they operate "to knit more closely together those families of which the members can trust each other's morals sufficiently to combine to frustrate the law" (p. 28); that "it is quite conceivable that in a couple hundred years' time not only the Japanese and the Chinese but also the Negro may be the superior in sheer intellect of the degenerate European" (p. 30); that the "London business man who prefers Sunday golf to a sermon is not aware that he is thereby contributing to the survival of the caddy as against the preacher" (p. 41). The hero of the volume is the great chief Luba who "when he dies, will probably be the progenitor of 1000 children" (p. 89).

The author of the volume is Fellow and Senior Tutor of Corpus Christi College, Oxford, England.

HARRY BARTH.

University of Oklahoma.

Benjamin Disraeli: The Romance of a Great Career: 1804-1881. THE RT. HON. SIR EDWARD CLARKE, K. C. (New York: The Macmillan Company. 1926. Pp. ix, 308.)

The author's prejudices in writing this life of Disraeli are frankly revealed in his preface. Every boy, he says, "will be the better for having before him this great example of industry, courage, and patience. Every Conservative will find his political faith refreshed and strengthened by having at hand the golden sayings of the greatest of Conservative

leaders." Such feelings are perhaps natural in an author who, after starting upon a brilliant career at the bar, became a Conservative member of Parliament under Disraeli's own leadership and later solicitor-general under Lord Salisbury. The point of view does not, however, cause Sir Edward Clarke to refrain from painting Disraeli's weaknesses as well as his abilities. Indeed this biography is unquestionably the fairest, most interesting, most valuable short life of Disraeli yet written. The student who wants an elaborate and day by day account of Disraeli must always go to the innumerable and heavy pages of Monypenny and Buckle. But the reader who can be satisfied more briefly may well be pleased with Sir Edward Clarke's achievement.

For the political scientist, Sir Edward Clarke has presented a very human picture of the career of a successful party leader. He shows Disraeli as the clever, ambitious young man, lacking any great amount of influence or wealth, and indeed under a racial handicap, who rises by dint of what Sir Edward Clarke calls "industry, courage, and patience" to the leadership of a proud kingdom and a prouder party. He reveals Disraeli's great weaknesses: he was a chancellor of the exchequer who had sometimes been in danger of arrest for debt, he was a foreign minister whose policies were taken from the pages of his own romantic novels. But he reveals equally Disraeli's great source of strength: his ability to govern men and women. The Queen, other ladies titled and untitled, young men new to Parliament and experienced parliamentarians, all followed the man of unbending will but flattering tongue. The House of Commons yielded to him in mass, for he could also sway men collectively. That Disraeli did have definite and farsighted policies, this book makes clear by well-selected quotations from his speeches. But Sir Edward is right in laying emphasis upon the man, for it was the man and not the policies that led the Conservative party and ruled England.

There can be no question of the timeliness of a new biography of a man who was the founder, if not of the Conservative party of Mr. Stanley Baldwin, at least of the Tory party of Sir Austen Chamberlain, Colonel Amery, and the average member of that class whom Disraeli called "the gentlemen of England."

E. P. CHASE.

Lafayette College.

Jefferson. By ALBERT JAY NOCK. (New York: Harcourt, Brace and Company. 1926. Pp. 340.)

In the life and writings of Thomas Jefferson, as in the Bible, one can see almost anything. One recent writer sees Jefferson as a consummate

but high-minded politician; another regards him as an ideal liberal statesman; Mr. Nock views him as an ubiquitous mind, a reluctant politician, a somewhat accidental statesman. The first harmonization of these and many other partial and conflicting interpretations remains to be achieved; the most baffling great figure of our early history is still something of an enigma.

Mr. Nock's book does not claim to be a comprehensive biography, or even an adequate summary. He terms it a study in conduct and character. Speaking of Jefferson's activities in France, he says, "The true business of life, in Europe as in America, lay outside the routine of politics and diplomacy." To him, the real Jefferson is the "man of science," ill at ease in law and politics, the experimental farmer and inventor of mechanical devices, the enthusiastic architect and landscape gardener. By stressing the multifarious intellectual activities of this amazingly versatile mind, Mr. Nock has served the public, and will perhaps recall even the professional historian to a better balance and proportion.

It may be seriously questioned, however, whether he has caught the true spirit of the man. We hope not, anyway. Jefferson here appears too mathematical, inordinately industrious, calculating, circumspect, and impenetrable, to be lovable. That he commanded the affection as well as the admiration of his large band of disciples is indubitable. Mr. Nock has not solved the riddle of his charm.

Nor is Mr. Nock convincing in his description of Jefferson as a reluctant participator in politics, leader of the democratic movement in the United States chiefly through force of circumstance, and really more at home in the vice-presidency than in any other office. Jefferson was not as passive and indifferent as that. Perhaps Mr. Nock has read back into him something of the disillusionment of our day, forgetting that he began with, and long retained, the passionate political hopefulness of eighteenth-century liberals. We are quite willing to go with Mr. Nock part of the way in interpreting Jefferson's statecraft in terms of agrarianism, but not to divorce him entirely from doctrinaire democracy and theoretical state rights and strict constructionism. It is hardly adequate to say that in politics Jefferson never wore "any other character than that of a farmer." Here also Mr. Nock views him through twentieth-century spectacles, and reads into him an economic class-consciousness and a disregard for political theory more characteristic of our day than his.

DUMAS MALONE.

University of Virginia.

The Political Education of Woodrow Wilson. By JAMES KERNEY. (New York: The Century Company. 1926. Pp. 503.)

This volume is another contribution to the fund of "inside" information about the leading figures in the World War period. The author was one of those rare persons who remained on friendly terms with Woodrow Wilson from the beginning of his political career to the end. He played his part as a newspaper observer and adviser on publicity for Wilson rather than as an actor, as did Colonel House, Secretary Lansing, and Ambassador Page, and he has told nothing which might better remain untold until time gives us more perspective. The best part of the book is that which describes Wilson's rise to the governorship in New Jersey and the preliminaries of the election of 1912, when the author was in closer touch with Wilson than after he became president.

So long as the author tells his story, he tells it in an interesting newspaper style and it is well worth reading, but when he tries to philosophize neither his philosophy nor the style is good. Here and there are touches of real wit and humor which make the reader wish for more. While the book does not add much to what was already known about the high points in Wilson's political career, it does help to understand the human side of the man and to throw light upon some of the methods which he used with such far-reaching effects.

GEOERGE H. McCAFFREY.

New York City.

The Social and Economic History of the Roman Empire. By M. ROSTOVTSOFF. (New York: Oxford University Press. 1926. Pp. xxv, 695.)

The appearance of this book is an event. It is unquestionably the most solid and also the most brilliant contribution which has ever been made toward the interpretation of the Roman Empire; it is unique likewise in its approach to the subject. For the first time a single scholar, superbly equipped for the task, has enriched us with a connected account of the social and economic forces which evolved and maintained the most successful imperial government the world has ever seen. To do this he had to dominate the field, to be equally conversant with the sources which have filtered down to us on parchment, on papyrus, and on stone, and to control the multifarious archaeological realia which proffer us their mute yet eloquent testimony. The resultant survey, drawn by a master's hand, is of equal importance to students of political science, of economics, and of history.

The author starts with a brilliant summary of the civil wars and of their causes, and then sketches Augustus' reconstruction. Here he emphasizes the altered conditions which shaped Augustus' policy, and underscores its national Roman character. Augustus won the allegiance of the municipal bourgeoisie, both in Rome and in the provinces. They supplied his administrative officials; from them the army was recruited. Hence the emperors favored the spread of new municipal centers as increasing the power and the numbers of those who supported them. Speaking economically, this period is marked by a great industrial growth; large-scale trade in raw products begins throughout the Mediterranean. In the days of Augustus this centers in Italy, but later on in the century this commerce tends to become decentralized to the provinces, where new industrial foci arise, especially in Gaul. The episode of Flavian rule brought to light a sharp popular protest among the intelligentsia against the military and autocratic rule of the dynasty, but under Nerva and Trajan the philosophic opposition became reconciled with the imperial power.

The succeeding three chapters (V-VII) deal primarily with the urbanization of the empire, its causes, its development, and its results. One inevitably compares these pages with Mommsen's classic work on the Roman provinces: how much our knowledge has broadened and deepened in forty years is truly extraordinary. We wonder, however, if the urbanization of the empire was necessarily a baneful phenomenon, and whether the creation of new cities meant in truth "the creation of new hives of drones" (p. 333). Were the cities as unproductive as M. Rostovtseff thinks? They seem not to have become so until the market reached a saturation point and new categories of consumers no longer appeared. The collapse of urban life came about, as the author shows, through the exploitative policy of the government on the one hand and the pressure of outside forces on the other. These latter were the barbarians and the army, now composed of villagers. M. Rostovtseff interprets the troubles of the third century as a revolt of the village against the town, in which the municipalities were completely bankrupted. The victory of the army undermined its own position, however, and Diocletian grouped things together as he found them into a haphazard structure whose rigidity paralyzed private initiative, though it prolonged the life of the state. The account of Diocletian and his work is somewhat scanty, and in certain regards, we think, does the re-constructor an injustice. These strictures, though, are but minor matters.

Critics will no doubt find other points to attack, but they cannot ignore this book. The plates contain rich material illustrative of the points raised in the text. In the voluminous notes a staggering mass of sources and bibliography has been gathered together: not a few of the longer annotations are in reality tabloid articles, explaining, illustrating, or defending the theses sustained in the body of the text. Typographically the book is a model; we can only regret that its high cost must perforce restrict the number of potential possessors.

R. P. BLAKE.

Harvard University.

Council and Courts in Anglo-Norman England. By GEORGE BURTON ADAMS. (New Haven: Yale University Press. 1926. Pp. xxv, 403.)

Students of English constitutional history are already familiar with six of the ten chapters of this book, dealing with procedure in the feudal *curia regis*, the local king's court under William I, private jurisdiction, and the origin of common law and equity and of the common law courts. These have appeared separately during the years since the publication of the author's "Origin of the English Constitution" in 1912, and are printed here without extensive changes except in the chapter on private jurisdiction, which is much expanded. The chapters on the age of the Conquest and of Henry I, Magna Carta, and the thirteenth century are new. The last is avowedly tentative, but the "warning of age" prompted its inclusion lest no "other opportunity will be afforded me to state conclusions that I believe are warranted in the way in which I should like to put them." These studies as now published together make an original and important interpretation of the beginnings of the judiciary—a book of great learning and a storehouse of references to sources and literature, Continental as well as English. General constitutional history is touched on only incidentally.

Of well-known controversial subjects falling in this field, it appears to the reviewer that the author has substantiated against Liebermann the point that the post-Conquest king's court was institutionally derived from the Continent; against Holdsworth, that there was essential continuity of English equity after the Conquest; against Maitland, that the Court of Common Pleas differed in origin from the other common-law courts, was inferior to them, and had no special connection with the primitive King's Bench; against the idea of Bolland and others that "bills in eyre" were practically new in Edward I's reign; and against

Pollard's narrow interpretation of the "liberties" of Magna Carta as baronial franchises and (incidentally) his idea that borough representatives were summoned to early parliaments on tenurial grounds.

As to Adams's leading interpretation of English constitutional history, which underlies this and all other work he did after 1901, that limited monarchy sprang from the contract principle of continental feudalism and is the central fact in the genesis of the constitution, students of the subject have long made up their minds, and nothing is presented now that will change them. But it seems appropriate to remark in connection with this his final work that he has been notable among English-speaking students of the constitution in his Continental approach; with a profound knowledge of Continental feudalism, he crossed the Channel with the Conqueror and has been free from the damaging Anglo-Saxon bias. His achievement is an honor to American scholarship.

ALBERT B. WHITE.

University of Minnesota.

BRIEFER NOTICES

Local Government in Many Lands, by G. Montagu Harris (P. S. King and Son, pp.viii, 341), is the most useful comparative study of its nature which has appeared in recent years. The author is especially qualified to deal with this subject because as an officer of the British ministry of health he was responsible for the preparation of certain data on local government in foreign countries presented to the Royal Commission on Local Government. The countries included are France, Belgium, Holland, Italy, Spain, Denmark, Sweden, Norway, the German states, Switzerland, Austria, Czechoslovakia, Estonia, Finland, Hungary, Poland, Roumania, Great Britain and Ireland, the British overseas dominions including India, the United States, and Japan. A more or less uniform plan for each country or state is followed. First there is an outline of the organization and functions of the local units of government; second, an account of local finances; third, central control over local authorities; fourth, a summary of the administration of certain public services such as health, education, highways, etc., and finally a conclusion in which recent tendencies are discussed. The book closes with a general summary and review in which the author considers, among other matters, certain tendencies which are found throughout the various countries, especially centralization and decentralization and financial control. He finds that the adoption of large areas of administra-

tion for certain public services is a world-wide tendency, and states that "It is rather in the United States of America than in any other country of the world that genuine new developments in local government are taking place." The index is especially useful because it is arranged in the form of a chart with headings for each country.

Custom and Right, by the late Professor Paul Vinogradoff (Harvard University Press, pp. 109), was written largely for the purpose of showing how legal facts and ideas can be studied from the comparative point of view and to call "attention to the value of comparative investigation in the domain of historical jurisprudence." Following the methods employed in his *Outline of Historical Jurisprudence* and using the customary organization of the family and the evolution of the right of property and possession as illustrations, the author reaches the following conclusions: (1) "In order to understand the process of legal evolution one must consider its modern aspects in connection with its origins and historical changes." (2) The analysis of judicial rules must be "supplemented by synthetic principles connected with notions of value." (3) "The standards of utility, morality and justice derived from these estimates of value are not absolute and vary with the times, but every legal system has to conform in some way with standards of this kind. A marked divergence between positive law and public opinion as to right threatens society with a crisis." (4) "The evolution of property depends on the security and confidence produced by harmonizing the action of two sets of factors—the human or 'subjective' elements of first occupation, labour and personal superiority, and the objective requirements of the tasks of social coöperation."

Essai sur le Désarmament et le Pacte de La Société des Nations, by M. de Lavaelaz (Rousseau 6th, Paris, pp. xliv, 505), is the title of a ponderous volume in the collection of the *École des Sciences Sociétés de l'Université de Lausanne*, which constitutes a sort of source-book for the study of the history of the movement for disarmament. The author modestly describes it as a "catalogue" or "index" of the opinions that have been emitted on the subject of disarmament from the beginning of the nineteenth century to the establishment of the League of Nations, of the proposals that have been made to this end, and the efforts that have been put forward at different times to bring about a reduction of armaments. The book is, however, much more than a catalogue or index: it is a summary and analysis of the whole movement; it contains a review of the literature; a discussion of the *projets* which have occupied

the attention of various international conferences; of the draft proposals of numerous bodies which have considered the subject, such as the Interparliamentary Union; and of the deliberations of the Paris Peace Conference of 1919 relative to the matter. The chief value of the book lies in the fact that it furnishes a *tableau panoramique* of one of the great world movements which, like the Court of International Justice, began as a dream, which has steadily grown in strength, and which now seems nearer than ever on the point of realization, in part at least. It contains a preface by Professor Rougier, dean of the law faculty of Lausanne and director of the School of Social Sciences, to whose published collections it is the latest contribution.

J. W. G.

Diplomatic Episodes (Longmans, Green and Co., pp. xvii, 295), by the late Professor William Carey Morey of the University of Rochester, discusses ten historical incidents "to point out the salient points at issue in each controversy, to show the mode in which diplomatic methods may be used in the interests of peace, and to suggest the way in which international diplomacy has extended to the development of certain phases of international law." The topics treated include the prelude to the Jay treaty, the case of the *Caroline*, American policy as to the law of recognition, the threatened partition of China at the close of the nineteenth century, the international status of the Suez Canal, international right of way with reference to the opening of the Panama Canal, the sale of munitions of war in its relation to the law of neutrality, British diplomacy and British colonial reform, the international policy of intervention, and the historical development of peace. Though the work contains nothing that is new, the style is lucid and readable. The discussion of the law of recognition, apropos of the Cuban revolt, suffers from a failure to distinguish sufficiently between the recognition of insurgency and the recognition of belligerency. It is stated that the claim of Colombia that Roosevelt's canal policy was strictly and technically contrary to law "scarcely needs any very serious comment"; and that "the late war may be resolved, as a matter of fact, into a conflict between the *law-breaking* and the *law-abiding* nations of the world."

Thirty-six papers presented at the twentieth annual meeting of the American Sociological Society in December, 1925, have been published under the title *The City*, in the July number of the *American Journal of Sociology* (University of Chicago Press, Vol. XXXII, No. 1, Part 2, pp. 1-248) of which Professor E. W. Burgess was the managing editor.

It is impossible to list all of the topics and contributors, but the following will give some indication of the scope of the volume and the vast amount of information which it contains: "The Problem of Personality in the Urban Environment," by William I. Thomas; "Social Distance in the City," by Emory S. Bogardus; "A Social Philosophy of the City," by N. J. Spykman; "The Eugenics of the City," by Russell H. Johnson; "A Redefinition of 'City' in Terms of Density of Population," by Walter F. Willcox; "Some Economic Factors in the Determination of the Size of American Cities," by C. E. Gehlke; "The Statistical Relationship between Population and the City Plan," by Ernest P. Goodrich; "The Rate of Growth of Certain Classes of Cities in the United States," by J. M. Gillette; "The Scope of Human Ecology," by Roderick D. McKenzie; "The Rise of the Metropolitan Community," by N. S. B. Gras; "The Natural Areas of the City," by H. W. Zorbaugh; "The Research Resources of a Typical American City as Exemplified by the City of Buffalo," by Niles Carpenter; and "The Study of Ethnic Factors in Community Life," by B. B. Wessel. In these papers one will find the city treated, not as a municipal corporation, but as an aggregate of people or a community in which there are many diverse interests, groups, and areas, but where there is at the same time a certain economic interdependence and a sense of unity produced by various coöperative activities such as schools, churches, public health, etc. Throughout the papers one finds emphasis placed upon mobility, location, position, and grouping of population as indexes for measuring and describing social phenomena and as forces which influence the government, growth, planning, and prosperity of a city. This volume of papers contains a wealth of suggestive material which the student of municipal government cannot afford to overlook.

The American Revolution Considered as a Social Movement, by J. Franklin Jameson, director of the Department of Historical Research in the Carnegie Institution of Washington (Princeton University Press, pp. v, 158), makes available in print four lectures delivered at Princeton in 1925. The contents are fairly indicated by the chapter headings: "The Revolution and the Status of Persons," "The Revolution and the Law," "Industry and Commerce," "Thought and Feeling." Taken as a whole, they offer, not a comprehensive social history of the Revolution, but a series of suggestive essays illustrating both what has already been done in this field and what needs to be done before such a comprehensive history can be written. The author's plea for a more liberal approach

to the history of the Revolution, and a larger recognition of the social, economic, and cultural developments which accompanied, and were closely related to, the political phenomena of the period, is likely to meet with general acceptance. The same thing is true of some of his generalizations; others should provoke discussion and be tested by fresh researches. In short, the book is a timely addition to the literature of the subject. It may also be recommended to laymen as distinctly readable.

E. B. G.

Stanley Baldwin, prime minister of Great Britain, has published through the Frederick A. Stokes Company a volume of addresses under the title *On England* (p. 275), comprising about forty short speeches delivered on various occasions. Only a few of the addresses are of a political nature, but the student of government will find many interesting ideas and opinions in the essays dealing with political life, truth and politics, political education, religion and politics, democracy, and the empire. The author is suspicious of the politician who is given to "literary rhetoric." "Let us remember this," he warns, "when we come to big things we do not need rhetoric. Truth . . . is naked. She requires very little clothing. . . . It is not necessarily the man most fluent of speech to whom we should entrust the destinies of the country." He also points out that the greatest service which the universities can render for political education is to enable the student to "judge the value of evidence." "If you can clear the mind of cant and detect the fallacy, whatever guise it may be wearing, I think you have made a long step forward in the education that every citizen in a democracy that may hope to endure must have."

Fifteen former students of Professor James Albert Woodburn have coöperated in preparing a volume of *Studies in American History* (Indiana University, pp. ix, 455) as a tribute to his long service as a teacher at Indiana University. At least four of these are of especial interest to teachers and students of government: "National Party Politics, 1837-1840," by Lawrence Hurst; "The Presidential Campaign and Election of 1840," by Walter Prichard; "The Political Balance in the Old Northwest, 1820-1860," by R. Carlyle Buley; and the "History of the Direct Primary in the State of Maine," by Orren C. Hormell. The latter article covers not only the genesis and development of the direct primary in Maine, but also the system in operation, its results, and present day opinions for and against. Professor Hormell is of the opinion that the greatest need is to bring into closer coöperation and

coördination the party machinery and the party candidates nominated at the primaries. "A step toward a solution," he ventures, "might be to take from the hand-picked delegates in the state conventions the function of creating the party organization, and to devise a more popular method of selecting party committees and party officials."

Believing that historical writing in the United States is unsatisfactory, the executive committee of the American Historical Association appointed in 1920 a committee, whose investigations have borne fruit in four stimulating essays on *The Writing of History* (Charles Scribner's Sons, 1926, pp. xii, 139), by Jean Jules Jusserand, Wilbur Cortez Abbott, Charles W. Colby, and John Spencer Bassett. Without slighting the priceless gain to history from the development of the scientific spirit, all four writers reject the hypothesis that history must be dull in order to be scientific, and deplore the neglect of form in modern historical scholarship. Besides a penetrating analysis of the causes of this neglect, the report offers several constructive suggestions, to ensure that history shall maintain its place as a form of literature. It recommends the devotion of more time, thought, and imagination to the problems of synthesis, greater emphasis on presentation in the training of graduate students, and wider reading in well-written histories.

The Supreme Court on the Incidence and Effects of Taxation, by Margaret Spahr (pp. 270), is one of the most recent of the Smith College Studies in History. The author emphasizes the economic rather than the legal aspects of the tax decisions. Miss Spahr points out that one should not be too critical of the Supreme Court's reiteration of dubious economic doctrines, because it is bound by precedents. Also "the court is not dealing with an academic question, but is laying down principles for the guidance of legislatures and citizens. To vacillate for the sake of gradually perfecting a theory is to cause inconvenience or actual injustice. It is not necessarily advisable for the judiciary to accept the conclusions of leading economists. Although the Supreme Court discusses the incidence and effects of taxation, its tax decisions are rendered, not as economics, but as law."

In *The Democratic Way of Life* (University of Chicago Press) Thomas Vernor Smith attempts to explain and justify the ideals of fraternity, liberty, and equality, in view of present conditions. He does not settle the age-long questions with which he deals. But his plea for economic equality is well argued; his discussion of democratic, as dis-

tinguished from aristocratic, leadership is suggestive; and there are other stimulating sections in the essay. The author conceives that the "good life" is for all men a life of labor rather than a life of leisure.

The Romanes Lecture delivered by G. M. Trevelyan at Oxford University has been published in a small booklet of twenty-seven pages under the title of *The Two Party System in English Political History* (Oxford, at the Clarendon Press). Mr. Trevelyan's central theme is that "the dualism of the English religious world, and the disabilities imposed on Dissenters, form a large part of the explanation of the peculiarly English phenomenon of two continuous political parties in every shire and town of the land, surviving even when obvious political issues seem asleep or settled, or when the party programmes seem in certain important respects to have changed hands. . . . The dualism in the religious life of the nation reflected itself into a political dualism. . . ."

The lectures delivered in 1925 by William Allen White at the University of North Carolina under the Weil Foundation have been published under the title *Some Cycles of Cathay* (University of North Carolina Press, pp. ix, 96). The thesis of the book and its contents are best presented in the words of the author: "that our country has passed through three major cycles, the Revolutionary cycle, the Anti-Slavery cycle and the Populist cycle; each cycle more or less duplicating the other and somewhat growing out of the other, and all three cycles being a part of a larger cycle of democratic growth in the peoples and governments controlled by the English-speaking races." It goes without saying that the book is interesting and profitable reading.

Fathers of the Revolution, by Philip Guedalla (G. P. Putnam's Sons, pp. xi, 302), contains biographical sketches of twelve persons who played an important part in the events connected with the war for American Independence—George III, Louis XVI, Lord North, the Earl of Chatham, Edmund Burke, General Burgoyne, Cornwallis, George Washington, Franklin, Samuel Adams, Alexander Hamilton, and La Fayette. The author prefaces these sketches with "A Short Treatise on Truth" in which he says that "It would be safer, perhaps, to make the usual genuflexions before the stiff effigies erected by tradition as patriotic totems. . . . But it seems more respectful to a man, even if he was a great man, to depict him as a man." It is from this point of view that he considers the various celebrities. The book is written in the author's characteristic spicy style.

Charles Moore, head of the Manuscript Division of the Library of Congress, has given us a most pleasant book on *The Family Life of George Washington* (Houghton Mifflin Company, pp. xvi, 250). Well written, well illustrated, it gives the impression of a sort of super guidebook to that part of Virginia where Washington lived and where the author has evidently made many of those "pious pilgrimages" referred to by Mrs. Theodore Roosevelt in her brief introduction to the book.

The books regarding Jefferson grow apace. One of the latest additions is a volume containing *The Best Letters of Thomas Jefferson* selected and edited by J. G. de Roulhac Hamilton (Houghton Mifflin Company, pp. xv, 300). These letters are of particular interest because they give a somewhat clearer idea of the personal side of Jefferson. They also reveal his views on such political subjects as the constitution, states rights, the judiciary, executive and legislative power, foreign policy, and local government.

The fifth volume of the *Cambridge Mediaeval History* (Cambridge University Press) is entitled *Empire and Papacy* and covers roughly the period 1050-1200. This volume well maintains the standard of the series as an indispensable work of reference. Students of political science would be particularly interested in the chapters on the government of mediaeval towns and in the long account of Roman and canon law in the Mediaeval Ages by an eminent American scholar of the University of Cambridge. The bibliographies are particularly full and useful.

Herbert H. Gowen and Josef W. Hall have written *An Outline History of China* (D. Appleton and Co., pp. xxviii, 542), the chief purpose of which is to give the American student a readable, scholarly, and unbiased account of the Chinese people and of their civilization. In the opinion of the reviewer, the authors have accomplished this end in admirable fashion. About two-thirds of the book is given over to the republican era, which has been treated without passion or prejudice. A bibliography for collateral reading, a key to Chinese pronunciation, an outline of eras and reigns, and a map of large size increase the usefulness of the book.

A *Report of the Crimes Survey Committee* (pp. 476) appointed by the Law Association of Philadelphia has been published. After a thorough investigation of the administration of criminal justice in that city the members of the committee concluded that there were three outstanding

weaknesses: (1) the magistrate's courts which were notoriously inefficient; (2) the large number of undetected and unprosecuted offenders; and (3) the absence of accessible classified statistical information. The committee expresses the opinion that if it were to consider the problem of the proper organization of the criminal administration of the city as it would consider any similar problem in the organization of a private corporation "one of the first changes made would be that the tenure of the office of the chief of police would be during good behavior and the office would be made sufficiently attractive to obtain and retain the services of a competent expert, freed from all the entanglements of 'practical politics.' But . . . the reform here suggested can be accomplished only when the increasing complexity of governmental administration has forced a change in the popular attitude." In this conclusion the authors of the report are in substantial agreement with the opinion expressed in Raymond B. Fosdick's *American Police Systems*.

The Law of Municipal Zoning, by Newman F. Baker (privately published, pp. 136), is a reprint of five articles written by the author for various law reviews. The topics covered are municipal aesthetics and the law, the constitutionality of zoning laws, zoning legislation, zoning ordinances, and the zoning board of appeals. Mr. Baker, who was at one time a special assistant corporation counsel of the city of Chicago, shows an acquaintance with a vast number of cases and a thorough knowledge of the subject not only from the legal point of view but in its broader aspects. The collection is perhaps the most useful treatise on this topic which has appeared since J. B. Williams' *The Law of City Planning and Zoning* (1922).

The *City Manager Magazine* for March, 1926, is a substantial volume of 242 pages, forming the twelfth annual year-book of the International City Managers' Association. A large part of this is given to the report of the proceedings of the annual convention of the Association, held at Grand Rapids, Michigan, November 17-19, 1925. Papers and discussions on many problems of municipal government are included, not only by city managers but also by others, such as Professor Charles E. Merriam of the University of Chicago. The year-book also presents articles on the growth, operation, and prospects of the manager plan, and a directory of the 361 manager cities and villages. A recent section of the *City Managers' Magazine* is the International Municipal Digest, published for the International Federation of Local Government Associations. A special report on the city manager plan in California, by

Randall M. Dorton, city manager of Monterey, has been reprinted in separate form.

American Villagers, by C. Luther Fry (George H. Doran Co., pp. xv, 201), is a statistical study of the size, composition, peculiarities, and contributions of village populations in the United States. Among the various conclusions the author points out that "contrary to general belief, village populations are increasing. From 1900 to 1920 villages actually increased in population more rapidly than the nation as a whole." Teachers of local government will find much useful illustrative material in this volume.

Our Times: the Turn of the Century, 1900-1904 (Scribners, pp. xxviii, 610), by the well-known correspondent, Mark Sullivan, is the first volume of a series of books narrating the chief happenings in America from 1900 to 1925. The material is gathered largely from newspapers, and the book is profusely illustrated with pictures and cartoons from magazines and papers. Emphasis is laid upon the contrast between 1900 and 1925 and a large amount of attention is given to political events. The book is written in popular style and is intended for the general reader.

Codification in the British Empire and America, by M. E. Lang (H. J. Paris, Amsterdam, pp. 204), is an account of the efforts which have been made in Anglo-Saxon countries to replace the system of unwritten common law by the code system prevailing generally on the Continent. The author confines his work entirely to exposition and does not attempt to deal with the controversy as to the merits and demerits of codification. Reading between the lines, especially in that part of the book covering the lack of legal uniformity in the American states, one gathers the impression, however, that M. Lang is in favor of codification.

Cases on Federal Taxation, by J. H. Beale and R. F. Magill (Prentice-Hall, pp. xv, 719), presents the leading cases on the federal income, corporation, estate, gift, and capital stock taxes which have been decided by the federal courts and by the board of tax appeals. There are numerous references to other cases, explanatory footnotes, and questions designed to direct the attention of the reader to the salient points in each decision. The usefulness of the book is increased by extracts from the tax laws of the United States and from regulations of the Treasury department. Considerable attention is paid to the administration of the tax laws and the questions arising therefrom.

Students of national administration as well as of constitutional and administrative law will, therefore, find much in the compilation which is helpful.

Charles Platt's *The Riddle of Society* (E. P. Dutton and Company, pp. ix, 306) is a timely and readable discussion of delinquency, by the president of the National Probation Association, who is also director of the Pennsylvania committee on penal affairs. The first half of the book deals with the causes of delinquency and certain types of delinquents. Then follow two chapters on the law and prison and punishment. The later part of the book discusses the various movements for the improvement of society, their results and limitations, the importance of education for the social life, and finally the author's program for salvaging those delinquents who cannot be saved by social hygiene and education.

Confessions of a Candidate, by Frank Gray, late M.P. for Oxford City and Junior Liberal Whip (Hopkinson, London, pp. 175), was sent to the REVIEW with a note saying that the book is "a very amusing and interesting account of English electioneering methods by a go-getter candidate." We can find no better words to describe it. The author tells of his campaign organization, explains how to choose and "nurse" a constituency both before and after election, and how to canvass voters. He also gives the details of the elections of 1918, 1922, 1923, and 1924. In the 1923 campaign Mr. Gray's election was voided because of the blunders and excessive expenditures of his agent. He also relates his experiences in Parliament, especially his services as whip. Those who believe that American methods are unknown in British politics will have to revise their opinion after reading this entertaining book.

One of the recent additions to the series of World Manuals published by the Oxford University Press is *Karl Marx's Capital* (pp. 128), by A. D. Lindsay, Master of Balliol College, Oxford. The thesis of the book is that "the labour theory of value starts in Marx as a theory of natural right, based as are all such theories of natural rights on an individualistic view of society; that while Marx retains to the last the demand for economic justice which is the inspiration of all forms of the labour theory of value, he transforms an individualistic theory into something very different by his insistence on the social nature of value and production." In this way the author finds a parallel between Marx and Rousseau and the book closes with a chapter comparing the two writers.

Dr. Alan G. B. Fisher has written a useful volume discussing *Some Problems of Wages and Their Regulation in Great Britain since 1918* (P. S. King & Son, pp. xviii, 281). A number of important wage disputes are treated at length in the light thus provided. Special attention is paid to the opinions and general outlook of the interested parties, which are believed to be "of the utmost importance in any attempt to ascertain the effects of any system of wage regulation."

In his *Italy under Mussolini* (The Macmillan Company, pp. 129) Mr. William Bolitho expresses strong dislike of the current Fascist régime. His disapproval is altogether natural, for he was forced to leave Italy while acting as correspondent for the New York World; but his book would have been much more convincing if he had not resorted to innuendo as one of his weapons.

Sumptryary Legislation and Personal Regulation in England (Johns Hopkins Press, pp. 282), by Frances E. Baldwin, is a detailed account of "the laws which regulated the intimate personal conduct of men in distinction from their general political rights and duties" from Edward III to Elizabeth, with a somewhat slighter chapter on the decline of sumptuary legislation in Stuart times.

D. Appleton and Company has published a substantial volume on *Federal Reserve Banking Practice* (pp. xix, 1016), by H. Parker Willis and William H. Steiner. It gives a thorough and detailed discussion of the practical workings and procedure of the federal reserve system. Although intended primarily for the business man and banker, it is an authoritative source of information on a subject which has numerous governmental ramifications. It also shows how an able administrative authority has, by the gradual working out of systematic regulations, applied and adapted the great body of congressional legislation, much of it crude or inconsistent, to the needs of our banking system.

The Romance of World Trade, by Alfred Pearce Dennis, vice-chairman of the United States Tariff Commission (Henry Holt and Company, pp. 493), is written by one who has plenty of facts, knowledge, and experience. The book is profusely illustrated. The chapter headings such as "Our Customers, the Italians," "Colorful Cotton," "The Invisibles of World Trade," are suggestive and inviting. But when one comes to read, one finds a style and method of presentation that are disappointing. Subjects of sentences trail off without a predicate. "Boxing the compass" is a favorite phrase often repeated; while the

failure of the indigo industry in India is used as an illustration four or five times. However, the general reader will find much of interest in the book.

Dependent America, by William C. Redfield (Houghton Mifflin Company, pp. 268), after restating in popular, easily readable form facts which show how indispensable alien resources are to us, turns into cogent argument for international coöperative action in the political field such as has long existed in the musical, artistic, religious, literary, and scientific fields and more recently in the financial and economic.

A useful report on *The Agricultural Problem in the United States* has been issued by the National Industrial Conference Board (pp. 157). This makes a careful analysis of the conditions and recognizes the difficulties of the present situation. No definite remedies are proposed; and the main conclusion is to emphasize the need for coöperation of various economic interests in working out the best solution.

A copy of the October, 1925, issue of *Weltwirtschaftliches Archiv* (Gustav Fischer, Jena, pp. 498, xviii) has been received. This massive quarterly, founded in 1913, is the *Zeitschrift des Instituts für Weltwirtschaft und Seeverkehr an der Universität Kiel*, and is edited by Professor Bernhard Harms. It is devoted to worldwide economics and the economic aspects of international relationships. Each issue contains sections given over to: (a) articles by leading scholars and business men of various countries; (b) chronicles and surveys of a quantitative character; and (c) exhaustive bibliographies of the literature of worldwide economics appearing in the leading countries of the earth. Certain of the articles are in English. The publication would appear to be of peculiar value to those interested in international trade and commerce.

Erwin Volckmann's *Germanischer Handel und Verkehr* (Gebrüder Memminger, Würzburg, pp. viii, 540) is correctly described as a synoptic commercial history of the Germanic peoples (including the English, Scandinavians, etc., as well as the Germans proper) from the earliest times until A.D. 1600. The book is admirably written, from the point of view of folk psychology and the philosophy of history, rather than from that of political economy.

Francis B. Simkins has written an interesting account of one of the dominant figures in Southern politics during the last generation under the title, *The Tillman Movement in South Carolina* (Duke University

Press, pp. 274). The author not only analyzes the personal influence of Senator Tillman on the politics and government of South Carolina but he also gives an account of the agrarian movement in the South during the eighties and describes the manner in which control was transferred from the old planters and statesmen to the small farmers. The book is a contribution to the study of American politics.

The main thesis in Sigmund Mendelsohn's *Saturated Civilization* (Macmillan, pp. xix, 180) is that "advance and recession mark the course of human progress," that civilization is not exempt from the laws of rhythm, and that, having produced a "surfeit of material progress" of social and political reform and educational opportunities, we are now about to swing backwards.

The Gentleman with a Duster is much alarmed about *The State of England* (G. P. Putnam's, pp. 149). Through one hundred and forty-nine pages of smoothly flowing language he first complains that England is not self-supporting and that its social structure is unsound. Then he preaches a very creditable sermon entitled "A Thesis of Life" in which he says that England's greatest asset is her moral vitality and that if England is not to perish she must take extra precautions not to lose this element of strength.

The Abolishment of the Electoral College (pp. 121), edited by Lamar T. Beman, is one of the most recent additions to the series of booklets known as *The Reference Shelf* published by the H. Wilson Company. Mr. Beman has here compiled a series of articles by various authorities for and against the abolition of the electoral college, together with a brief for debate and a bibliography.

Milton Conover, of Yale University, has compiled a *Working Manual of Civics* (Johns Hopkins Press, pp. 88) which contains a series of exercises and problems for high school students based upon the use of a few important public documents and books accessible to the average high school.

The number of Service Monographs issued by the Institute for Government Research (Johns Hopkins Press) continues to grow rapidly. Since the appearance of the signed review (Vol. xviii, pp. 622-626) covering the first thirty-three monographs six more have been published, including *The Bureau of Standards* (pp. 299) by G. A. Weber; *The Government Printing Office* (pp. 143), by L. F. Schmeckebier; *The Bureau*

of the Mint (pp. 90), by J. P. Watson; *The Office of the Comptroller of the Currency* (pp. 84), by J. G. Heinberg; *The Naval Observatory* (pp. 101), by G. A. Weber; and *The Lighthouse Service* (pp. 158) by George Weiss.

The fame of Hugo Grotius as a writer on international law has so overshadowed his other work that one scarcely realizes that he was also an authority on jurisprudence. Another side of this remarkable man is emphasized by the appearance of an edition of the first volume of Grotius' *The Jurisprudence of Holland*, edited by R. W. Lee (Oxford: Clarendon Press, pp. xxv, 531). The editor has presented the original Dutch text and the English translations on opposite pages, and there are appended five large tables photographically reproduced from the first edition in the form that they were compiled by Grotius.

Captain Thomas G. Frothingham has concluded his series of three books on the naval history of the World War with a volume on *The United States in the War, 1917-1918* (Harvard University Press, pp. 310). The author brings out very clearly a point which is commonly overlooked or underrated, "that in the last stage sea power was the impelling force which was bringing final defeat to Germany."

Professor J. E. Harley, of the University of Southern California, has revised and enlarged his *Selected Documents and Material for the Study of International Law and Relations* (Los Angeles: Times-Mirror Press, pp. 422). The new material consists largely of extracts from the Locarno treaties and the text of the United States Senate resolution regarding the World Court reservations.

Under the title *Monografia del Departamento de Guatemala*, a substantial study giving a detailed description of the departments of Guatemala and its various municipalities has been prepared by J. Antonio Villacorta, chief officer of the department, and printed at the national press (pp. 378). Chapter XI gives a brief summary of departmental and municipal administration.

An exhaustive study of the social theory of an early syndicalist, *Guillaume de Greef* (Columbia University, pp. 391), has been provided by Dorothy Wolff Douglas. The book is divided into three parts: in the first, the backgrounds of De Greef's life and thought are set forth; in the second, the writer's works are summarized—for the first time in English; and in the third, they are critically examined. Mrs. Douglas' conclusion is that "De Greef's abstract theory, even to the complicated

working of his 'system' of classification, is the outcome of his specific interests as a reformer." The volume will be of interest to the political theorist.

Professor Paul Périgord has performed a useful service by writing the first complete account in English of the history, structure, and operations of *The International Labor Organization* (D. Appleton and Company, pp. xxxii, 339) of the League of Nations. The volume is interesting and informing, but less impartially critical than might have been desired, the subject being considerably idealized.

A new contribution to the study of racial intelligence by means of mental tests is Clifford Kirkpatrick's monograph, *Intelligence and Immigration* (The Williams and Wilkins Co., pp. xiv, 127). His conclusions are "that marked differences in the intelligence of immigrant groups exist even when in the same environment, and the total of evidence, with certain exceptions, is unfavorable to the 'new immigration,' especially the Italians, so that the effect of immigration on American intelligence might be viewed with some concern." One's acceptance of these conclusions will largely depend upon one's judgment of the mental-testing technique, and of the relative influence of nature and nurture in moulding intelligence.

Miss Edith Abbott has prepared a second valuable volume of select documents touching on immigration. This one deals at length with *Historical Aspects of the Immigration Problem* (The University of Chicago Press, pp. xx, 881) during the period before 1882, the period of the "old immigration." Sections are devoted to: causes of emigration; economic aspects of the immigration problem; early problems of assimilation; pauperism and crime and other domestic immigration problems; and, public opinion and the immigrant.

One of the most recent additions to the *Reference Shelf* series published by the H. W. Wilson Co. is *Election versus Appointment of Judges* (pp. 171) compiled by L. T. Beman. Following the plan of the other booklets in the series, it contains reprints of selected articles, a bibliography, and affirmative and negative briefs on the subject.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CLARENCE A. BERDAHL

University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

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